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UNITED NATIONS PROGRAMME OF ASSISTANCE IN THE TEACHING, STUDY, DISSEMINATION AND WIDER APPRECIATION OF INTERNATIONAL LAW

Report of the Secretary-General

CONTENTS

	Paragraphs	Page
I. INTRODUCTION	1 - 7	4
II. IMPLEMENTATION OF THE PROGRAMME DURING THE BIENNIUM 1992-1993	8 - 126	8
A. Activities of the United Nations	8 - 94	8
1. Geneva International Law Seminar	8 - 17	8
2. Activities of the Office of Legal Affairs	18 - 58	10
(a) Public international law and other activities	18 - 24	10
(b) Activities concerning the law of the sea and ocean affairs: the Hamilton Shirley Amerasinghe Memorial Fellowship	25 - 36	11
(c) Activities concerning international trade law	37 - 58	13
3. Cooperation between organs of the United Nations	59	19
4. Cooperation with other organizations	60	19

CONTENTS (continued)

	Paragraphs	Page
5. Publicity	61 - 73	19
(a) United Nations *Treaty Series*	61 - 64	19
(b) *United Nations Juridical Yearbook*	65	20
(c) Publication in all official languages of the United Nations of the summaries of the judgments, advisory opinions and orders of the International Court of Justice (1948-1991)	66 - 72	20
(d) Other forms of publicity	73	21
6. Provision of United Nations legal publications	74	21
7. Fellowships offered at national institutions	75	22
8. International Law Fellowship Programme	76 - 94	22
B. Activities of the United Nations Institute for Training and Research	95 - 111	26
C. Activities of the United Nations Educational, Scientific and Cultural Organization	112 - 121	30
D. Other activities reported by States and international organizations concerning the teaching, study, dissemination and wider appreciation of international law pursuant to General Assembly resolutions 46/53 and 47/32	122 - 126	32
III. GUIDELINES AND RECOMMENDATIONS REGARDING EXECUTION OF THE PROGRAMME IN THE BIENNIUM 1994-1995, WITHIN THE FRAMEWORK OF THE UNITED NATIONS DECADE OF INTERNATIONAL LAW	127 - 142	34
A. General observations	127 - 129	34
B. Activities of the United Nations	130 - 139	35
C. Activities of the United Nations Institute for Training and Research	140	37
D. Activities of the United Nations Educational, Scientific and Cultural Organization	141	37

/...

CONTENTS (continued)

		Paragraphs	Page
	E. Other activities by States and international organizations concerning the teaching, study, dissemination and wider appreciation of international law, pursuant to General Assembly resolution 47/32	142	37
IV.	ADMINISTRATIVE AND FINANCIAL IMPLICATIONS OF UNITED NATIONS PARTICIPATION IN THE PROGRAMME	143 - 153	37
	A. Biennium 1992-1993	143 - 150	37
	B. Biennium 1994-1995	151 - 153	38
V.	MEETINGS OF THE ADVISORY COMMITTEE ON THE UNITED NATIONS PROGRAMME OF ASSISTANCE IN THE TEACHING, STUDY, DISSEMINATION AND WIDER APPRECIATION OF INTERNATIONAL LAW	154 - 175	39
	A. Membership of the Advisory Committee	154	39
	B. Twenty-seventh session	155 - 174	39
	C. Twenty-eighth session	175 - 203	42

I. INTRODUCTION

1. The United Nations Programme of Assistance in the Teaching, Study, Dissemination and Wider Appreciation of International Law was established by the General Assembly under its resolution 2099 (XX) of 20 December 1965 and has been continued under relevant resolutions repeated annually until 1971 and biennially thereafter. 1/ The most recent resolution concerning the Programme is resolution 46/50 of 9 December 1991.

2. In resolution 44/23 of 17 November 1989, in which it declared the period 1990-1999 as the United Nations Decade of International Law, the General Assembly considered the encouragement of the teaching, study, dissemination and wider appreciation of international law as one of the main purposes of the Decade and stressed the need to promote those activities. 2/ The foregoing was reaffirmed by the Assembly in its resolution 45/40 of 28 November 1990, 3/ by which it adopted the programme for the activities to be commenced during the first term (1990-1992) of the United Nations Decade of International Law, set out in the annex to the resolution.

3. Chapter IV of the above-mentioned programme for the activities reads as follows:

> "IV. ENCOURAGEMENT OF THE TEACHING, STUDY, DISSEMINATION AND WIDER APPRECIATION OF INTERNATIONAL LAW
>
> "1. The Advisory Committee on the United Nations Programme of Assistance in the Teaching, Study, Dissemination and Wider Appreciation of International Law is requested, in the context of the Decade, to formulate relevant guidelines for the Programme's activities and to report to the Sixth Committee on the activities carried out under the Programme in accordance with such guidelines. Special emphasis should be given to supporting academic and professional institutions already carrying out research and education in international law, as well as to encouraging the establishment of such institutions where they might not exist, particularly in the developing countries. States are encouraged to contribute to the strengthening of the United Nations Programme of Assistance in the Teaching, Study, Dissemination and Wider Appreciation of International Law.
>
> "2. States should encourage their educational institutions to introduce courses in international law for students studying law, political science, social sciences and other relevant disciplines; they should study the possibility of introducing topics of international law in the curricula of schools at the primary and secondary levels. Cooperation between institutions at the university level amongst developing countries, on the one hand, and their cooperation with those of developed countries on the other, should be encouraged.
>
> "3. States should consider convening conferences of experts at the national and regional levels in order to study the question of preparing model curricula and materials for courses in international law, training of

teachers in international law, preparation of textbooks on international law and the use of modern technology to facilitate the teaching of and research in international law.

"4. The United Nations system of organizations, regional organizations and States should consider organizing seminars, symposia, training courses, lectures and meetings and undertaking studies on various aspects of international law. States and regional organizations have already expressed their readiness to undertake such activities on the following subjects: developing countries and international law (China); developing countries and international legislation on the environment (China); law of the sea (Yugoslavia); joint ventures in deep seabed mining (Asian-African Legal Consultative Committee); and promotion of the ratification of the United Nations conventions on refugees (Asian-African Legal Consultative Committee).

"5. States are encouraged to organize special training in international law for legal professionals, including judges, and personnel of ministries of foreign affairs and other relevant ministries. The United Nations Institute for Training and Research, the United Nations Educational, Scientific and Cultural Organization, the Hague Academy of International Law and regional organizations are invited to cooperate in this respect with States.

"6. Cooperation among developing countries, as well as between developed and developing countries, in particular among those persons who are involved in the practice of international law, for exchanging experience and for mutual assistance in the field of international law, including assistance in providing textbooks and manuals of international law, is encouraged.

"7. In order to make better known the practice of international law, States, regional and other international organizations should endeavour to publish, if they have not done so, summaries, repertories or yearbooks of their practice.

"8. It would be conducive to the teaching and dissemination of international law if all judgments and advisory opinions of the International Court of Justice were available in all official languages of the United Nations. As envisaged in General Assembly resolution 44/28 of 4 December 1989 and bearing in mind the wishes expressed by States, the Sixth Committee will consider, at the forty-sixth session of the Assembly, the Secretary-General's report containing a study of alternative means of making the publications of the International Court of Justice available in all the other official languages in addition to French and English, within the existing overall level of appropriations and in a way which meets the concerns expressed by the Court. Such a study should also consider the possibility, within the existing overall level of appropriations, of compiling and publishing thematic and analytical summaries of the judgments and advisory opinions of the International Court of Justice.

"9. Other international courts and tribunals, including the European Court of Human Rights and the Inter-American Court of Human Rights, are invited

> to disseminate more widely their judgments and advisory opinions, and to consider preparing thematic or analytical summaries thereof.
>
> "10. International organizations are requested to publish treaties concluded under their auspices, if they have not yet done so. Timely publication of the United Nations Treaty Series is encouraged and efforts directed towards adopting an electronic form of publication should be continued. Timely publication of the United Nations Juridical Yearbook is also encouraged."

4. Furthermore, in its resolution 47/32 of 25 November 1992, the General Assembly recalled that the encouragement of the teaching, study, dissemination and wider appreciation of international law is one of the main purposes of the Decade. By the same resolution, the General Assembly adopted the Programme for the activities for the second term (1993-1994) of the United Nations Decade of International Law, 4/ chapter IV of which reads as follows:

> "IV. Encouragement of the teaching, study, dissemination and wider appreciation of international law
>
> "1. The Advisory Committee on the United Nations Programme of Assistance in the Teaching, Study, Dissemination and Wider Appreciation of International Law should, in the context of the Decade, continue to formulate, as appropriate and in a timely manner, relevant guidelines for the Programme's activities and report to the Sixth Committee on the activities carried out under the Programme in accordance with such guidelines. Special emphasis should be given to supporting academic and professional institutions already carrying out research and education in international law, as well as to encouraging the establishment of such institutions where they might not exist, particularly in the developing countries. States and other public or private bodies are encouraged to contribute to the strengthening of the United Nations Programme.
>
> "2. States should encourage their educational institutions to introduce courses in international law for students studying law, political science, social sciences and other relevant disciplines; they should study the possibility of introducing topics of international law in the curricula of schools at the primary and secondary levels. Cooperation between institutions at the university level amongst developing countries, on the one hand, and their cooperation with those of developed countries on the other, should be encouraged.
>
> "3. States should consider convening conferences of experts at the national and regional levels in order to study the question of preparing model curricula and materials for courses in international law, training of teachers in international law, preparation of textbooks on international law and the use of modern technology to facilitate the teaching of and research in international law.
>
> "4. States, the United Nations system of organizations and regional organizations should consider organizing seminars, symposia, training

courses, lectures and meetings and undertaking studies on various aspects of international law.

"5. States are encouraged to organize special training in international law for legal professionals, including judges, and personnel of ministries of foreign affairs and other relevant ministries as well as military personnel. The United Nations Institute for Training and Research, the United Nations Educational, Scientific and Cultural Organization, the Hague Academy of International Law, regional organizations and the International Committee of the Red Cross are invited to continue cooperating in this respect with States.

"6. Cooperation among developing countries, as well as between developed and developing countries, in particular among those persons who are involved in the practice of international law, for exchanging experience and for mutual assistance in the field of international law, including assistance in providing textbooks and manuals of international law, is encouraged.

"7. In order to make better known the practice of international law, States and international and regional organizations should endeavour to publish, if they have not done so, summaries, repertories or yearbooks of their practice.

"8. States and international organizations should encourage the publication of important international legal instruments and studies by highly qualified publicists, bearing in mind the possibility of assistance from private sources.

"9. Other international courts and tribunals, including the European Court of Human Rights and the Inter-American Court of Human Rights, are invited to disseminate more widely their judgements and advisory opinions, and to consider preparing thematic or analytical summaries thereof.

"10. International organizations are requested to publish treaties concluded under their auspices, if they have not yet done so. Timely publication of the United Nations _Treaty Series_ is encouraged and efforts directed towards adopting an electronic form of publication should be continued. Timely publication of the _United Nations Juridical Yearbook_ is also encouraged."

5. Moreover, in its resolution 46/50, the General Assembly, _inter alia_, bore in mind the objectives of the United Nations Decade of International Law and authorized the Secretary-General to carry out in 1992 and 1993 the activities specified in the report that he had submitted at the forty-sixth session (A/46/610). The Assembly expressed its appreciation to the Secretary-General for his constructive efforts to promote training and assistance in international law within the framework of the United Nations Programme of Assistance in the Teaching, Study, Dissemination and Wider Appreciation of International Law, in particular for the organization of the twenty-sixth 5/ and twenty-seventh 6/ sessions of the International Law Seminar, held at Geneva in June 1990 and June 1991, respectively, and the participation of the Office of Legal Affairs of the Secretariat and its Codification Division in the activities related to the

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Programme. The Assembly also expressed its appreciation to the United Nations Educational, Scientific and Cultural Organization (UNESCO) and to the United Nations Institute for Training and Research (UNITAR) for their participation in the Programme.

6. In paragraph 17 of that resolution, the General Assembly requested the Secretary-General to report to it at its forty-eighth session on the implementation of the Programme during 1992 and 1993 and, following consultations with the Advisory Committee on the Programme, to submit recommendations regarding the execution of the Programme in subsequent years.

7. In accordance with the request of the General Assembly, the present report deals with the implementation of the Programme of Assistance during 1992 and 1993 and contains guidelines and recommendations submitted regarding the execution of the Programme in subsequent years. The report, inter alia, gives an account of the activities performed by the United Nations itself and of those in which the Organization has participated, as well as a description submitted to the Secretary-General by UNITAR and UNESCO concerning their own activities.

II. IMPLEMENTATION OF THE PROGRAMME DURING THE BIENNIUM 1992-1993

A. Activities of the United Nations

1. Geneva International Law Seminar

8. Pursuant to General Assembly resolution 46/54 of 9 December 1991, the United Nations Office at Geneva organized the twenty-eighth session of the International Law Seminar during the forty-fourth session of the International Law Commission (ILC). The Seminar is intended for postgraduate students of international law and young professors or government officials dealing with questions of international law in the course of their work. Twenty-four candidates of different nationalities, mostly from developing countries, were selected. Twenty-one of the selected candidates, as well as four United Nations-UNITAR fellowship holders, were able to participate in the 1992 session of the Seminar, which was held at the Palais des Nations from 1 to 19 June 1992.

9. Participants were from the following countries: 7/ Botswana, China, Congo, Djibouti, Dominican Republic, Ethiopia, France, Guyana, Hungary, India, Indonesia, Ireland, Mexico, Nepal, Paraguay, Russian Federation, Rwanda, South Africa, Thailand, Trinidad and Tobago, Vanuatu, Viet Nam, Zambia and Zimbabwe.

10. Furthermore, and pursuant to General Assembly resolution 47/33 of 25 November 1992, the United Nations Office at Geneva organized the twenty-ninth session of the International Law Seminar during the forty-fifth session of the International Law Commission. Twenty-four candidates of different nationalities, mostly from developing countries, were selected. All the selected candidates, as well as one United Nations/UNITAR fellowship holder, were able to participate in the 1993 session of the Seminar which was held at the Palais des Nations from 1 to 18 June 1993.

11. The participants in the 1992 Seminar were from the following countries: 8/ Argentina, Australia, Austria, Barbados, Cameroon, Costa Rica, Croatia, Finland, Guatemala, India, Indonesia, Madagascar, Malawi, Mexico, Nepal, Peru, Philippines, Poland, Russian Federation, Sudan, Sweden, Togo, Tonga, United Republic of Tanzania and Zimbabwe (UNITAR fellowship holder).

12. The dates of the seminars were set in consultation with the Office of Legal Affairs of the Secretariat so as to permit United Nations-UNITAR fellows also to participate in the session. 9/

13. During the three weeks of each session, the participants attended the meetings of the International Law Commission. In addition, a number of lectures were given at the Seminar. Some of the lectures were delivered by members of the Commission; others were given by officials of the United Nations and of the secretariats of other international organizations at Geneva, as well as of the International Committee of the Red Cross.

14. In addition, in 1992, four Working Groups were also created which dealt with the following topics: (1) relationship between the International Criminal Court (ICC) and the Security Council; (2) sources of law to be applied by ICC; (3) initiation of proceedings before ICC; and (4) conferment of jurisdiction on ICC. Each Working Group elaborated a paper on its topic; the papers were presented orally and copies were made available to the members of the Commission. 10/

15. The Seminar is funded by voluntary contributions from Member States and through national fellowships awarded by Governments to their own nationals. The Commission noted with particular appreciation that in 1992 the Governments of Argentina, Austria, Cyprus, Denmark, Finland, France, Hungary, Jamaica, Morocco, Sweden, Switzerland and the United Kingdom of Great Britain and Northern Ireland and, in 1993, the Governments of Austria, Cyprus, Denmark, Germany, Ireland, Mexico, Norway, Sweden, Switzerland and the United Kingdom had made fellowships available to participants from developing countries through voluntary contributions to the appropriate component of the United Nations Programme of Assistance. With the award of these fellowships it was possible to achieve adequate geographical distribution of participants and to bring from distant countries deserving candidates who would otherwise have been prevented from participating in the session. At each session full fellowships (travel and subsistence allowance) were awarded to 15 participants and a partial fellowship (subsistence only) was given to 1 participant in 1992 and 3 participants in 1993. Thus, of 643 participants, representing 150 nationalities, who have participated in the Seminar since its inception in 1964, fellowships have been awarded to 342. 11/

16. At both sessions, the Commission stressed the importance it attached to the sessions of the Seminar, which enable young lawyers and especially those from developing countries to familiarize themselves with the work of the Commission and the activities of the many international organizations that have their headquarters at Geneva. However, as the available funds were almost exhausted, the Commission recommended that the General Assembly should again appeal to States able to do so to make the voluntary contributions needed to hold the Seminar in 1994 with as broad a participation as possible. 12/

17. The Commission also noted with regret that in 1993 very limited interpretation services had been made available to the Seminar and it expressed the hope that every effort would be made to provide the Seminar at future sessions with full services and facilities despite existing financial constraints. 13/

2. Activities of the Office of Legal Affairs

(a) Public international law and other activities

18. As in the past, the Office of Legal Affairs of the United Nations Secretariat and, in particular, its Codification Division continued to perform various functions connected with the goals of the Programme.

19. Pursuant to the relevant recommendations of the Secretary-General 14/ and paragraph 1 of resolution 46/50, the Office participated with UNITAR in the decision-making process on the various aspects relating to the general orientation of the Fellowship Programme in International Law, such as the selection of fellows and the appointment of lecturers for the Programme. In that connection, the officers responsible for the conduct of the fellowship programme in the Codification Division of the Office of Legal Affairs and in UNITAR acted in close consultation to ensure the implementation of the guidelines of the fellowship programme as approved by the General Assembly. Furthermore, the Programme Planning and Budget Division of the Secretariat has vested in the Office of Legal Affairs the certifying authority for expenditures against the accounts related to the United Nations Programme of Assistance in the Teaching, Study, Dissemination and Wider Appreciation of International Law. The Office also supervised a number of fellows assigned to spend a period of training in the Office.

20. Furthermore, the Office of Legal Affairs received and assigned interns to participate in activities related to some of its projects. The Office, in cooperation with the Office of Human Resources Management of the Secretariat, selects the interns and the duration and type of their training, which may consist in attaching the intern to a project of the Office of Legal Affairs related to matters in which the intern has a special interest, for academic or other reasons. None of the interns entail any financial burden for the Organization.

21. Members of the staff of the Office of Legal Affairs, upon the proposal, as a rule, of the Department of Public Information, have also lectured at Headquarters on various aspects of international law and the law of international organizations to groups of foreign office officials and university students, as well as to representatives of non-governmental organizations.

22. The Codification Division, among other activities related to the Programme, also performs secretariat functions for the Advisory Committee on the Programme and has been involved in the preparation of the interim report of the Secretary-General on the implementation of the Programme.

23. The Division has also serviced the Working Group of the Sixth Committee on the United Nations Decade of International Law, originally established pursuant

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to paragraph 4 of General Assembly resolution 44/23 of 17 November 1989, and whose mandate was renewed by paragraph 1 of resolution 46/53 of 9 December 1991, with a view to preparing generally acceptable recommendations for the Decade. The Division was also involved in the preparation of the report of the Secretary-General on the Decade.

24. The Codification Division also assists in the dissemination of information regarding United Nations work on the codification and progressive development of international law, as well as on some aspects regarding its application. In this connection, in cooperation with the Registry of the International Court of Justice, the Division has produced, in a single volume, the Summaries of Judgments, Advisory Opinions and Orders of the International Court of Justice (1948-1991) (see paras. 66-72 below).

(b) Activities concerning the law of the sea and ocean affairs: the Hamilton Shirley Amerasinghe Memorial Fellowship

25. The activities of the Division for Ocean Affairs and the Law of the Sea aimed at promoting the acquisition of additional knowledge of the law of the sea and its wider application have been continued by providing training and assistance, *inter alia*, through the annual award of the Hamilton Shirley Amerasinghe Memorial Fellowship on the Law of the Sea.

26. The fellowship was launched in accordance with General Assembly resolution 35/116 of 10 December 1980 and the programme has as its purpose the advancement of the fellows in their chosen professions or vocations, which would contribute to the development of their countries, and the acquisition by them of additional knowledge on, better understanding of and greater specialization in the fields of study related to the law of the sea, its implementation and marine affairs.

27. The fellowship award provides for chosen fellows to pursue postgraduate-level research and training in the field of the law of the sea, its implementation and related marine affairs. Research and study facilities at the postgraduate level are provided for the successful fellows at the participating institutes of higher education. An internship period of three months is provided in the Division for Ocean Affairs and the Law of the Sea, Office of Legal Affairs. The universities participating in the programme are: Centre for Ocean Law and Policy, University of Virginia, United States; Dalhousie Law School, Halifax, Canada; Graduate Institute of International Studies, Geneva; Marine Policy Center, Woods Hole Oceanographic Institution, Massachusetts, United States; Netherlands Institute for the Law of the Sea, University of Utrecht, Netherlands; Research Centre for International Law, University of Cambridge, United Kingdom; School of Law, University of Georgia, United States; School of Law, University of Miami, United States; School of Law, University of Washington, United States; and William S. Richardson School of Law, University of Hawaii, United States.

28. The guidelines and rules of the Hamilton Shirley Amerasinghe Fellowship on the Law of the Sea set out the application and selection procedures and specify the facilities provided under the programme. These are consistent with the appropriate practices of the United Nations regarding the award of fellowships

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under the United Nations Programme of Assistance in the Teaching, Study, Dissemination and Wider Appreciation of International Law. 15/

29. Applications are received globally in response to invitations extended through the offices of the resident representatives of the United Nations Development Programme (UNDP) and through the United Nations information centres. The selection of candidates is subject to a two-stage process. The preliminary stage of review of the individual applications and nominations, which are received from Governments, governmental agencies, institutions and bodies, is carried out by the Division for Ocean Affairs and the Law of the Sea in cooperation with the Codification Division of the Office of Legal Affairs. A short list of candidates is drawn up for evaluation by an Advisory Panel.

30. Seven awards have been made since 1986. The awards are made by the Legal Counsel of the United Nations; prior to 1992 they were made by the Special Representative of the Secretary-General for the Law of the Sea. Awards are made on the basis of the recommendation of the Advisory Panel. The Advisory Panel is composed of eight eminent persons in international affairs, the law of the sea and related fields. The Panel is constituted to evaluate the candidates and make recommendations on the most suitable candidate, with two reserves. It is on the basis of this recommendation that the award is made.

31. The seventh annual award of the fellowship on the Law of the Sea was made in 1992 to a Thai woman, the Acting Chief of the International Law and Treaty Subdivision, Department of Fisheries of the Ministry of Agriculture and Cooperatives. The awards made since the institution of the fellowship have been: in 1986 to a lawyer from the Ministry of Foreign Affairs of Nepal; next, to a lawyer from the Ministry of Foreign Affairs of the United Republic of Tanzania, in 1987; in 1988, to a Legal Adviser attached to the Ministry of Foreign Affairs of Chile; in 1989, to a State Counsel with the Ministry of Legal Affairs of Trinidad and Tobago; in 1990, to a jurist from the Ministry of Foreign Affairs of Sao Tome and Principe; and in 1991 to a lecturer at the Faculty for Maritime and Transportation Studies, University of Rijeka, now Croatia. The seven fellowships awarded since the commencement of the programme have included successful candidates from nearly all regions of the world.

32. The candidate selected for the seventh award will commence a programme of research and study on the subject of "Joint Development Area Concept for Dispute Settlement in the South China Seas". She will be a visiting scholar with the University of Washington under the supervision of Dean Wallace Loh and Professor William Burke. Under the terms of the rules and guidelines of the fellowship, the fellows are required to prepare a dissertation on a subject of special relevance, which would be utilized in the preparation of a study on the subject, and may be published by the Division for Ocean Affairs and the Law of the Sea. The previous fellow concluded his fellow-in-residence programme at the University of Miami and served an internship period in the Division for Ocean Affairs and the Law of the Sea. The product of his study and research is a dissertation on the delimitation of maritime boundaries.

33. The annual fellowships are funded from the interest accrued under the Hamilton Shirley Amerasinghe fellowship fund. This meets the cost of round-trip air travel of the successful fellow from the home country to the educational institution and thereafter to United Nations Headquarters and back to the home

country. It also provides a subsistence allowance while at the university and during the internship period with the United Nations, Division for Ocean Affairs and the Law of the Sea, in New York, on the basis of established United Nations rates for fellowships.

34. Under the fellowship programme the participating universities provide facilities for successful candidates to pursue academic research and study, which is free of tuition and related costs. In the light of the facilities offered under the programme by the several prestigious universities that participate, it would be possible to accommodate several additional candidates each year. Thus, the Advisory Panel, having evaluated the candidates, recommends the most suitable candidate with two reserves as only one fellowship has been awarded each year, owing to the limited income from the Trust Fund. If funding could be provided from other sources, including the countries of candidates' origin, then additional candidates could also benefit from the facilities offered by the universities. To this end, a short list of reserve candidates is identified each year. The Panel therefore reiterated its recommendation that every endeavour should be made to accommodate more than one fellow each year, and that effort should be aimed towards securing additional funding for this purpose. In view of this recommendation, continued efforts have been made to obtain additional funding and assistance. The Under-Secretary-General for Legal Affairs, the Legal Counsel, would urge and would once more appeal for further contributions to the fellowship fund from Member States, philanthropic organizations, international organizations and individuals in order to permit the award of more than one annual fellowship, thus enabling an expansion of the current programme and the more effective utilization of the opportunities offered by the participating universities.

35. The Advisory Panel for the Seventh Annual Fellowship noted the high standard of applicants and was particularly impressed with the 20 candidates on the short list. Considering that the funds available were only adequate to provide one fellowship this year with no further funding being available from this source, the Chairman of the Panel, Professor John Norton Moore, suggested exploring the possibility of finding accommodation for some of the candidates by matching their interests and academic pursuits with the universities participating under the programme and other institutions, conditional upon external funding. The short-listed candidates were written to in an attempt to elicit their interest. Several universities and funding institutions were addressed for alternate funding sources. Attention was drawn to the fact that, inasmuch as the opportunity to pursue graduate studies or research with an institution would benefit the candidates and their countries, the universities would likewise benefit from the global diversity and regional specialization of the candidates.

36. The Advisory Panel will meet later in 1993 to recommend a candidate for the eighth award. Thereafter the award will be announced by the Under-Secretary-General for Legal Affairs, the Legal Counsel.

(c) Activities concerning international trade law

37. The activities of the United Nations Commission on International Trade Law (UNCITRAL) and its secretariat (International Trade Law Branch of the United Nations Office of Legal Affairs) are designed primarily to acquaint lawyers,

government officials and scholars, particularly from developing countries, with the work of UNCITRAL and with the legal texts that have emanated from its work. In doing so the Secretariat has kept in mind the decision of the Commission at its fourteenth session, in 1981, that a major purpose of the training and assistance activities should be the promotion of texts that have been prepared by the Commission. 16/

38. Since the statement of the Commission at its twentieth session (1987) that "training and assistance was an important activity of the Commission and should be given a higher priority than it had in the past", 17/ the Secretariat has endeavoured to devise a more extensive programme of training and assistance than had been previously carried out.

39. In its resolution 47/34 of 25 November 1992 on the report of UNCITRAL on the work of its twenty-fifth session (New York, 4-22 May 1992), the General Assembly reaffirmed the importance, in particular for developing countries, of the work of the Commission concerned with training and assistance in the field of international trade law and the desirability for it to sponsor seminars and symposia to provide such training and assistance. The Assembly also expressed its appreciation to the Commission for organizing, as a contribution to the activities of the United Nations Decade of International Law, a Congress under the theme "Uniform commercial law in the twenty-first century", held in May 1992 in New York in conjunction with the twenty-fifth session of the Commission, and the seminars on international trade law, held at Suva in October 1991, and at Mexico City in February 1992, and to the Governments whose contribution enabled the seminars to take place. The Assembly further invited Governments, the relevant United Nations organizations, institutions and individuals to make voluntary contributions to the UNCITRAL Trust Fund for Symposia and, where appropriate, to the financing of special projects, and otherwise to assist the secretariat of the Commission in financing and organizing seminars and symposia, in particular in developing countries, and in the award of fellowships to candidates from developing countries to enable them to participate in such seminars and symposia.

40. Set forth below are the main activities undertaken by UNCITRAL and its secretariat in the area of training and assistance during the reporting period.

(i) Regional seminar on international trade law in Fiji (Suva, 21-25 October 1991)

41. A regional seminar on international trade law was organized jointly with the South Pacific Forum Secretariat, a regional organization with a membership of 15 States and territories. The seminar was held at the Forum Secretariat Headquarters in Suva, Fiji. The Forum Secretariat provided the facilities necessary for the holding of the seminar, which was financed by a grant of the Government of Australia and by funds of the UNCITRAL Trust Fund for Symposia. Australia further supported the seminar by providing two lecturers; the other lecturers were a Canadian consultant, a lawyer from the region and two members of the secretariat of the Commission. It was attended by 16 participants, mainly senior government officials, from 12 States and territories members of the South Pacific Forum.

42. The seminar covered international sale of goods, international transport and storage of goods, international dispute settlement and international payments. The respective texts prepared by UNCITRAL on these subjects were presented for examination and discussion.

43. During the discussions that followed the lectures, it was widely recognized that the existing legislation of most of the Forum States might well be inadequate to meet present-day requirements of international trade. Accordingly, the following suggestions were made: (i) that all participants should make appropriate recommendations and reports to their respective Governments with regard to the matters discussed; and (ii) that the conclusions and observations of the seminar should be reported to the Forum Regional Security Committee and to the Forum Officials Committee for their consideration of further regional initiatives, such as focusing on the desirability of regional uniformity in trade law and on technical assistance required for further evaluating the relation between the existing national laws and prevailing laws and practices in international trade.

44. The UNCITRAL secretariat has remained in close contact with the Forum secretariat and with participants from the seminar in an effort to maintain the interest generated towards adoption of the texts that have emanated from the work of the Commission.

(ii) National seminar on international commercial arbitration in Mexico (Mexico City, 20 and 21 February 1992)

45. A seminar on international commercial arbitration was held at Mexico City on 20 and 21 February 1992. The seminar was jointly organized by the Mexican Ministry of External Relations and the secretariat of the Commission. Lectures were given by four Mexican experts, a consultant and a member of the secretariat on various legal texts, including the UNCITRAL Model Arbitration Law and the UNCITRAL Arbitration Rules, and on various issues of international arbitration practice. The seminar was attended by about 80 ministry officials, practitioners and teachers of law.

(iii) UNCITRAL Congress (New York, 18-22 May 1992)

46. A Congress under the theme "Uniform commercial law in the twenty-first century" was organized by the secretariat of the Commission during the third week of the Commission's twenty-fifth session, from 18 to 22 May 1992, as UNCITRAL's contribution to the activities of the United Nations Decade of International Law. The Congress, a practice-oriented event attended by more than 400 practising lawyers, corporate counsel, ministry officials, judges, arbitrators, teachers of law and other users of uniform legal texts from around the world, considered the accomplishments achieved in the progressive unification and harmonization of international trade law during the 25 years since the inception of UNCITRAL and the practical needs that might have to be addressed in the future.

47. Over 60 speakers from different regions and legal systems presented a panoramic view of developments in major areas of international commercial law. The Congress provided a useful assessment of the progress made to date in the unification and harmonization of international trade law, and the discussions

that took place will assist the Commission and other organizations involved in the unification and harmonization of international trade law in laying out the course of their future work.

(iv) Fifth UNCITRAL Symposium on International Trade Law (Vienna, 12-16 July 1993)

48. The Secretariat organized the Fifth UNCITRAL Symposium on International Trade Law on the occasion of the twenty-sixth session of the Commission. The Symposium was designed to acquaint young lawyers with UNCITRAL as an institution and with the legal texts that have emanated from its work. It may be noted that, until late April 1993, it was uncertain whether sufficient funds would be available from the UNCITRAL Trust Fund for Symposia to finance the costs of the usual number of participants (approximately 35). It later became clear that only 20 participants could benefit from such financing. That situation resulted from a reduction in the number and level of contributions to the Trust Fund. In addition to 20 participants from African countries whose travel costs were paid from the UNCITRAL Trust Fund for Symposia, a number of individuals from other regions of the world attended at their own cost. As was the case with the Fourth Symposium in 1991, lecturers were invited primarily from representatives to the twenty-sixth session and from members of the Secretariat. In order to save on the costs of interpretation and to be able to increase the communication between participants themselves, the Symposium was held in French and English only. It is expected that the Sixth Symposium, which is planned for 1995, will be held in English and Spanish.

(v) Other seminars, conferences and professional meetings

49. Members of the UNCITRAL secretariat participated as speakers in the following seminars and courses in which UNCITRAL legal texts were presented for examination and discussion: United Nations-UNITAR Fellowship Programme on International Law (The Hague, 5-9 August 1991); Arbitration Seminar (Sydney, Australia, 18 October 1991); Annual Australian Seminar on International Trade Law (Canberra, 18 and 19 October 1991); and Seminar on Arbitration (Dhahran, Saudi Arabia, 18 and 19 November 1991); SIGMA Workshop on Public Procurement Systems (Vienna, October 1992), jointly organized by the Organisation for Economic Cooperation and Development (OECD) and the European Communities; Conference on Cooperation between the European Communities and the countries of the Commonwealth of Independent States in Forming a Market-Economy Legal System (Kiev, 11-13 November 1992); UNCTAD Ad Hoc Working Group on Trade Efficiency (Geneva, 16-20 November 1992); Consultations with trade officials in Singapore on all UNCITRAL legal texts and with the Singapore International Arbitration Centre and interested lawyers and arbitrators concerning the UNCITRAL Model Law on International Commercial Arbitration (Singapore, 16 November 1993); Preferential Trade Area for Eastern and Southern African States (PTA) Policy Organs Meeting and Tenth Anniversary Celebrations (Lusaka, 7-22 January 1993); Asian-African Legal Consultative Committee (AALCC) Annual Conference (Kampala, 1-6 February 1993); Conference on International Arbitration in a Changing World, held by the International Council for Commercial Arbitration (ICCA) (Bahrain, 14-16 February 1993); SIGMA Workshop on Practical Aspects of Implementing Public Procurement Systems (Paris, 12-16 April 1993); Arbitrators' Symposium of London Court of International Arbitration (London, 23-25 April 1993); International Trade Law Postgraduate Course held by the International Training Centre of the

International Labour Organization (ILO) and the University of Turin Institute of European Studies (Turin, Italy, 10 and 11 May 1993).

(vi) National seminars on international trade law

50. In view of the relative cost-effectiveness of the national seminars as compared to regional seminars, the Secretariat recently emphasized the holding of strings of national seminars. Since the twenty-fifth session of the Commission the following national seminars have been held:

(a) Bangkok (3-5 November 1992), held in cooperation with the Ministry of Foreign Affairs and attended by approximately 150 participants;

(b) Jakarta and Surabaya, Indonesia (9-10 and 12-13 November 1992), held in cooperation with the Ministry of Foreign Trade and attended by approximately 150 participants;

(c) Lahore, Pakistan (4-6 January 1993), held in cooperation with the Export Promotion Bureau and the Research Society for International Law and attended by approximately 75 participants;

(d) Colombo (9-11 January 1993), held in cooperation with the Attorney General's Department, the Bar Association of Sri Lanka and the University of Colombo and attended by approximately 160 participants;

(e) Dhaka (16-18 January 1993), held in cooperation with the Export Promotion Bureau and the Bangladesh Institute of Law and International Affairs and attended by approximately 70 participants;

(f) Kiev (7-10 February 1993), held in cooperation with the Ministry of Foreign Economic Relations and attended by approximately 30 participants;

(g) Warsaw (22 and 23 February 1993), held in cooperation with the Polish Chamber of Commerce and attended by approximately 40 participants;

(h) Rogaska Slatina, Slovenia (22-24 April 1993), held in cooperation with the Law School of Maribor and Slovenian Government authorities and attended by approximately 90 participants.

51. The internship programme was continued. During 1992 the Secretariat received seven interns.

(vii) Consideration by UNCITRAL of the subject of the teaching, study, dissemination and wider appreciation of international trade law

52. UNCITRAL considered this subject at its twenty-sixth session (5-23 July 1993). In the report on the work of that session 18/ the Commission noted the training and assistance activities during the prior year as well as possible future activities in this important area.

53. The Commission noted that growing awareness of the UNCITRAL legal texts in many countries, in particular developing countries and newly independent States, had resulted in increased requests for technical assistance from individual

Governments or regional organizations. It also noted that no funds for the travel expenses of participants or lecturers were provided for in the regular budget. As a result expenses had to be met by voluntary contributions to the UNCITRAL Trust Fund for Symposia. Particular attention was drawn in this respect to the fact that the amount of funds needed for UNCITRAL training and technical assistance in the area of international trade law were comparatively small while the benefits to be drawn from the modernization and progressive harmonization of legal rules in the area of international trade were considerable. Yet, while the demand for training and assistance had increased sharply, the availability of funds had actually diminished. Of particular value have been the contributions made to the UNCITRAL Trust Fund for symposia on a multi-year basis, because they had permitted the secretariat to plan and finance the programme without the need to solicit funds from potential donors for each individual activity.

54. The Commission also noted that, in line with the Secretary-General's policy of developing an integrated approach for the development assistance activities of the United Nations system, the Secretariat had initiated contacts with UNDP, the main funding, planning and coordinating body of technical development assistance within the United Nations system. This approach particularly aimed at an appropriate integration of UNCITRAL's technical assistance activities into the United Nations technical assistance programmes, in particular in the area of law reform. Contact had also been initiated with the Legal Advisory Services for Development (LASD), a recently established entity within the United Nations Secretariat. It was also noted that cooperation had been established with organizations outside of the United Nations system, for example, with the SIGMA programme of the OECD in the area of procurement, and with the Pacific Economic Cooperation Council (PECC), regarding an action programme on harmonization of trade law in the Pacific basin.

55. The Commission further noted that direct technical assistance was provided to a number of countries considering adoption of legislation based on UNCITRAL texts. This frequently involved review of draft legislation and often took place in the form of an exchange in writing of observations and suggestions. Where appropriate and feasible, this type of assistance took place in conjunction with seminars or through specific missions for that purpose.

56. A series of national seminars was being planned by the Secretariat for the remainder of 1993 in Argentina, Azerbaijan, Belarus, Brazil, Georgia, Kyrgyzstan, Mongolia, the Republic of Moldova and Uzbekistan. The Secretariat's ability to implement these plans is contingent upon the receipt of sufficient funds in the form of contributions to the Trust Fund for Symposia.

57. The Commission expressed its appreciation to all those who participated in the organization of UNCITRAL seminars, and in particular to those that gave financial assistance to the programme of seminars and the UNCITRAL Trust Fund for Symposia. The Commission also expressed its appreciation to the Secretariat for its efforts to conduct an expanded programme of seminars and symposia.

58. Recognizing the crucial importance of training and technical assistance as one of the major vehicles of the UNCITRAL dissemination and communication system, the Commission noted the need for States to consider making contributions to the UNCITRAL Trust Fund for Symposia so as to enable the

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Secretariat to meet the increasing demands for training and technical assistance, especially in developing countries and newly independent States. In addition, the need was noted for increased cooperation and coordination with development assistance agencies, particularly those within the United Nations system.

3. Cooperation between organs of the United Nations

59. Members and Special Rapporteurs of the International Law Commission and of its secretariat engaged in a series of useful telephonic conferences, round tables and exchanges of views with members of the Sixth Committee on topics of mutual interest to the two organs which resulted in a better understanding of various aspects of the work of ILC on the topics of its agenda.

4. Cooperation with other organizations

60. Several international organizations and institutions 19/ have continued to participate as observers in various meetings of United Nations bodies dealing with the progressive development of international law and its codification. For instance, such international organizations and institutions participate as observers in the work of the Sixth Committee of the General Assembly, the International Law Commission, UNCITRAL and other committees created for the purpose of drafting international instruments. It is also to be noted that, on 23 October 1992, a joint meeting of the members of AALCC, the legal advisers of the permanent missions of Member States to the United Nations in New York and the President and two judges of the International Court of Justice was held in cooperation with the Secretariat to discuss a number of topics of mutual interest.

5. Publicity

(a) United Nations Treaty Series

61. The United Nations has made special efforts to eliminate the backlog in the publication of volumes of the United Nations Treaty Series. The Treaty Section hopes to have eliminated the backlog in the compilation of manuscripts by the end of the current biennium.

62. In addition to its own work on the elimination of the backlog, the Office of Legal Affairs has also been actively pursuing its programme of computerization of the Treaty Series. An automated Superindex (English and French) of treaties registered with the Secretariat under Article 102 of the Charter of the United Nations was prepared on the basis of the database of the United Nations Treaty Information System. This database encompasses data on all material registered, whether published or not in the United Nations Treaty Series. During 1994-1995, the Treaty Section will make the Superindex available on CD-ROM.

63. In 1992-1993, work was completed on an analysis of the feasibility and cost of making available through on-line access the contents of the entire United

Nations Treaty Series, as well as the material registered but not yet published. Subject to approval by the General Assembly, the Treaty Section will carry out this programme in 1994-1995.

64. Also during 1992-1993, the computerization of the publication Multilateral Treaties deposited with the Secretary-General, Status as at 31 December 199 , was completed. It is now being updated on a daily basis. It is anticipated that it will be ready for on-line access by Member States and other users in the course of 1994.

(b) United Nations Juridical Yearbook

65. Publication of the United Nations Juridical Yearbook has been resumed after an interruption due to the financial crisis. The 1982, 1983, 1984, 1985 and 1990 editions appeared in 1989, 1990, 1991, 1992 and 1993 respectively, and the 1986 edition is in press. The calendar of production of subsequent editions provides for the submission of the 1991 edition by the end of 1993; the 1987, 1992 and 1988 editions in 1994; and the 1989 and 1993 editions in 1995. This calendar, under which work proceeds simultaneously at both ends, will make it possible to bridge the gap and eliminate the backlog by the end of 1995, while at the same time keeping readers of the Yearbook abreast of contemporary developments.

(c) Publication in all official languages of the United Nations of the summaries of the judgments, advisory opinions and orders of the International Court of Justice (1948-1991)

66. Over the years, a growing number of delegations have expressed the wish, both in the Sixth Committee of the General Assembly and in the Advisory Committee of the United Nations Programme of Assistance in the Teaching, Study, Dissemination and Wider Appreciation of International Law, to the effect that the jurisprudence of the International Court of Justice should be the subject of a wider dissemination in all the official languages of the Organization. This concern found its way into paragraph 14 of General Assembly resolution 44/28 of 4 December 1989 and chapter IV, paragraph 8, of the programme for the activities to be commenced during the first term (1990-1992) of the United Nations Decade of International Law contained in the annex to General Assembly resolution 45/40 of 28 November 1990, which reads in part: "It would be conducive to the teaching and dissemination of international law if all judgments and advisory opinions of the International Court of Justice were available in all official languages of the United Nations." The said paragraph also refers to "the possibility, within the existing overall level of appropriations, of compiling and publishing thematic and analytical summaries of the judgments and advisory opinions of the International Court of Justice".

67. The previous report of the Secretary-General on the Programme of Assistance 20/ explained the reasons why the translation and publication in extenso of the judgments and advisory opinions of the International Court of Justice into the other official languages of the Organization, in addition to English and French, do not appear possible at the current stage within the existing overall level of appropriations of the United Nations budget.

68. However, it has proved possible to translate into the other official languages of the Organization, in addition to English and French, and to publish in all official languages the summaries of the judgments, advisory opinions and orders of the Court (1948-1991), as provided by the Court's Registry, and to update this publication in subsequent years.

69. These summaries are based closely on the texts which have, over the years, been regularly prepared by the Registry of the Court for information purposes and incorporated into press communiqués issued in English and French at the time of the pronouncement of the judgment, advisory opinion or order concerned.

70. This publication, which condenses in a single and handy volume the case-law of the Court (1948-1991) and is intended to be updated on a regular basis in subsequent years, constitutes a new addition to the publications programme of the Office of Legal Affairs, Codification Division, under the budgetary subprogramme "Making international law and United Nations legal activities more accessible", which already includes: the United Nations Legislative Series, the United Nations Juridical Yearbook and the Reports of International Arbitral Awards.

71. All of the above publications also perform an important role in fulfilling the goals of the United Nations Programme of Assistance in the Teaching, Study, Dissemination and Wider Appreciation of International Law.

72. As of the time issuance of the present report, the compilation had already appeared in all the official languages of the United Nations. 21/ The success of the first edition of the English version led to its reissue, which has also been published.

(d) Other forms of publicity

73. The UN Chronicle has frequently included information on the current legal activities of the United Nations. 22/

6. Provision of United Nations legal publications

74. Pursuant to paragraph 138 of the 1991 report of the Secretary-General on the Programme of Assistance 23/ and paragraph 1 of General Assembly resolution 46/50 authorizing its implementation, copies of United Nations legal publications issued during 1992 have been provided to the institutions in developing countries that have been receiving such publications under the Programme and to other institutions in the developing countries for which requests for such publications have been made by the Member States concerned. 24/ The International Court of Justice continued to provide copies of its publications to institutions receiving assistance under the Programme. In this connection, the Court has reported that in the recent past it has substantially increased the number of universities and institutions, particularly from developing countries, receiving its publications on a regular basis. 25/ Furthermore, the Court has included in its free distribution list United Nations information centres recently established in some developing countries. 26/

7. Fellowships offered at national institutions

75. While in the past the United Nations Secretariat has publicized fellowship offers for the study of international law at national institutions, no offer was received during 1992.

8. International Law Fellowship Programme

76. In paragraph 2 (a) of its resolution 46/50, the General Assembly authorized the Secretary-General to award a minimum of 15 fellowships each in 1992 and 1993. On the basis of that resolution, 19 fellowships were awarded in 1992 and 20 fellowships in 1993.

77. Up to 1992, the operational costs of the Programme were shared between the Office of Legal Affairs and UNITAR. The fellowships themselves (travel expenses and per diem) were financed partly from the budgetary allocation for the Programme of Assistance and partly from a trust fund of voluntary contributions earmarked for the Programme, whereas the expenses related to organizational staff and lecturers were borne by UNITAR. In 1993, however, the General Assembly, in paragraph 5 of its resolution 47/227 of 8 April 1993, on the "United Nations Institute for Training and Research", decided "that the funding of training programmes held at the specific request of States Members of the United Nations and members of other United Nations system organs and specialized agencies should be arranged by the requesting parties". On the basis of that paragraph, all aspects of the International Law Fellowship Programme, including expenses related to organizational staff and lecturers, had to be financed by the Office of Legal Affairs.

78. As a result, most of the budgetary allocation for the Programme of Assistance went to cover the costs of the Fellowship Programme, and no regional refresher course could be organized by UNITAR during the biennium.

79. The implementation of the 1993 Fellowship Programme, for which UNITAR was responsible, will be evaluated in all its aspects, including the financial ones, in order to arrive at the most appropriate and cost-effective arrangements for the future.

80. The objectives of the International Law Fellowship Programme are to enable qualified persons from developing countries, in particular middle-grade government legal officers and young teachers of international law, (a) to deepen their knowledge of international law, particularly those questions of special interest to developing countries; (b) to acquire practical experience of the legal work of the United Nations and its associated agencies; and (c) to have an opportunity for frank and informal exchanges of views on legal problems of common interest or of special concern to their respective countries.

81. The criteria applied in the selection of candidates are the following: qualifications of individual applicants; needs of their respective countries; potential applicability in their normal fields of work of the benefits obtained from the fellowship; preference to candidates from countries whose nationals have not been awarded a fellowship in immediately preceding years; preference to

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the poorest among developing countries and to those which have recently gained independence; and equitable representation of males and females.

82. In 1992, a total of 139 applications was received by the closing date.

83. The fellows selected in 1992 were from the following countries: Albania, 27/ Bolivia, Botswana, Brazil, Cape Verde, Djibouti, Egypt, 27/ Guinea-Bissau, Liberia, Nepal, Nicaragua, Oman, Sierra Leone, Sri Lanka, Suriname, Vanuatu, Viet Nam, Zaire and Zambia.

84. In 1993, a total of 162 applications was received by the closing date.

85. The fellows selected in 1993 were from the following countries: Albania, Cambodia, Central African Republic, Colombia, Equatorial Guinea, Haiti, Jamaica, Kenya, Lao People's Democratic Republic, Mali, Mexico, Myanmar, Paraguay, 28/ Philippines, Rwanda, Senegal, Singapore, Tunisia, United Republic of Tanzania and Zimbabwe. 28/

86. As in previous years, the Fellowship Programme was composed of the following three schemes:

(a) Attendance for six weeks at the annual lectures in private and public international law at The Hague Academy of International Law and participation in the special lectures and seminars organized by UNITAR, which are held concurrently with the Academy's lectures. Eleven fellows pursued this scheme in 1992 and 17 in 1993;

(b) Attendance for six weeks at the lectures at The Hague Academy of International Law and the UNITAR special seminars as in scheme (a) above, and participation in the Geneva International Law Seminar, organized by the Office of Legal Affairs in conjunction with the annual session of the International Law Commission. Four fellows (from Botswana, Djibouti, Vanuatu and Viet Nam) pursued this scheme in 1992; two participants (Paraguay, Zimbabwe) were selected for this scheme in 1993; 28/

(c) Attendance for six weeks at the lectures at The Hague Academy of International Law and the UNITAR special seminars as in scheme (a) above, followed by a three-month practical training period in the Office of Legal Affairs of the United Nations Secretariat or in the legal departments of the various United Nations bodies or specialized agencies. Two fellows (from Liberia and Zaire) pursued this scheme in 1992 and one (Cambodia) in 1993.

87. The study programme at The Hague comprised, in addition to the series of lectures on private and public international law given at the Academy, an intensive programme of seminars and exercises specially organized by UNITAR for the benefit of the fellows.

88. In 1992, the Hague Academy courses included the following topics:

(a) Under private international law:

(i) General course;

(ii) The contribution of the Hague Conference to the development of private international law in Latin America;

(iii) Constitutional limits on choice of law;

(iv) The contribution of the Hague Conference to the development of private international law in common-law countries;

(v) Private international law, scholarly law;

(vi) The incidental question in private international law;

(vii) Conflicts of laws in extra-contractual obligations;

(viii) The implications of European integration for the development of private international law;

(ix) Privatization in comparative and private international law;

(x) The contribution of the Hague Conference to the development of private international law;

(b) Under public international law:

(i) General course;

(ii) Specific rules of Latin American international law;

(iii) The law of the European Communities in its relations with general international law;

(iv) Self-executing and non-self-executing treaties in national and international law;

(v) Techniques of international law;

(vi) International law and municipal law;

(vii) States, peoples and minorities.

89. The special seminars 29/ covered the following topics:

(a) Legal aspects of conflict management by the Security Council;

(b) The right of peoples to self-determination;

(c) International humanitarian law;

(d) United Nations peace-keeping operations;

(e) The intergovernmental regulations of international trade;

(f) International refugee law;

(g) International human rights law;

(h) Aspects of the process of codification and progressive development of international law in the United Nations, including the question of the possible establishment of an international criminal jurisdiction;

(i) International economic law;

(j) Legal dimensions of development financing;

(k) The role of the United Nations in the new world order;

(l) International environmental law.

90. In 1993, the Hague Academy courses included the following topics:

(a) Under private international law:

(i) General course;

(ii) Personal status in African countries: concepts and solutions to the problems of private international law;

(iii) Public policy and the social purpose of laws in private international law;

(iv) Products liability in private international law;

(v) International business transactions in United States courts;

(vi) International cooperation and protection of children with regard to inter-country adoption;

(vii) International art trade and law;

(viii) International transfers of funds;

(b) Under public international law:

(i) General course;

(ii) The changes in Central and Eastern Europe and their impact on international law;

(iii) The legal framework of South-South cooperation;

(iv) The International Court of Justice - viewed from the bench (1976-1993);

(v) The concept of the interested State under international law;

(vi) Humanitarian law as applicable to armed conflicts at sea;

(vii) International commitments arising for States without or against their will.

91. The special seminars 30/ covered the following topics:

(a) Refugee law;

(b) International economic law;

(c) Treaty making;

(d) Intergovernmental regulations of international trade;

(e) United Nations peace-keeping operations;

(f) Some aspects of the process of codification and progressive development of international law in the United Nations, including the question of the establishment of an international criminal jurisdiction;

(g) The right of people to self-determination;

(h) Implementation of Chapter VII by the Security Council;

(i) Human rights law;

(j) Legal aspects of debt management;

(k) International environmental law.

92. The methodology used in these special seminars lays emphasis on the practical aspects of the topics, including case-studies, and it encourages the active participation of the fellows.

93. In 1992, participants also had the opportunity to meet with several Judges of the International Court of Justice. The Secretaries of the Court gave a general introduction to the work of the Court. Furthermore, visits to the Dutch Ministry of Foreign Affairs as well as to the Institute of Social Studies at The Hague were incorporated into the Programme.

94. In 1993, participants also attended public sittings at the International Court of Justice in connection with the case concerning the territorial dispute between the Libyan Arab Jamahiriya and Chad. The Secretaries of the Court gave general introduction courses on the work of the ICJ and the participants also had the chance to meet with a Judge of the Court.

B. Activities of the United Nations Institute for Training and Research

95. The following is an account of activities performed by UNITAR which are related to the teaching, study, dissemination and wider appreciation of international law.

Training to promote peaceful settlement of disputes

Workshop on Procedures for the Settlement of Commercial Disputes at the General Agreement on Tariffs and Trade

96. When working within the framework of multilateral negotiations, a basic knowledge of international economic law is essential. This also applies to the procedures for the settlement of disputes. The objective of this workshop is to explain dispute settlement procedures, including mediation and conciliation, that are used in the General Agreement on Tariffs and Trade (GATT). The workshop proceeds from an explanation of the institutional structure of GATT and its basic rules to a descriptive analysis of the processes used by the contracting parties to resolve trade disputes. The workshop is open to members of the permanent missions dealing with the affairs of GATT (and the United Nations Conference on Trade and Development (UNCTAD)) who have already acquired some experience in the field of international negotiations. These workshops, conducted in English and French, are prepared jointly with the Legal Division of GATT. They take place annually at Geneva and, on request, in developing countries.

Training on legal aspects of debt management

97. UNITAR's training programme in debt management seeks to provide training in legal aspects of debt management in countries of sub-Saharan Africa and Asia and the Pacific. A range of subregional seminars and national follow-up workshops (along with institution-building measures) will be implemented in the participants' countries to sensitize and/or train senior officers, middle-level managers, law professors and lawyers in legal aspects of debt management. The training programme will also establish facilities in selected countries to provide training on a continuing basis, both nationally and subregionally.

98. The objective of these seminars is to focus on the legal elements in the overall process of international loan negotiations and to deal in particular with those clauses in a loan agreement which are most relevant to the borrower and on which improvements can be sought in its favour.

99. Current activities in the field of debt management encompass a number of diversified training components of several technical assistance programmes. There is, however, a clear need for broader and more coherent programmes focusing exclusively on specific aspects of debt management. This was clearly pointed out in the Debt Management Consultation Meeting convened by the United Nations Development Programme (UNDP) in New York.

100. While many factors have led to the current dismal state of debt management in developing countries, the underestimation and the neglect of legal aspects of debt management are certainly among the most important. Within the countries of the region, there is a lack of awareness and a casual attitude towards the importance of legal procedures in debt management which has negative effects on their ability to repay their debt obligations. Attention needs to be focused on the following points: (a) weaknesses in drafting terms and conditions prior to negotiations and in the monitoring of implementation of legal agreements on behalf of borrowers *vis-à-vis* lenders; (b) lack of negotiating skill and power of lawyers; (c) under- (inadequate) representation of lawyers in finalizing

contracts and at the time of rescheduling; and (d) lack of awareness of senior officials of the need to use more legal skills in debt management.

101. It is thus for two reasons that UNITAR has been led to select these aspects of debt management, at least for the time being: (a) no other institution, save one or two, provides training in these areas in a methodical way, so that there is a gap which UNITAR expects to fill; and (b) it has been found that quite often potential borrowers do not recognize the crucial role that good legal support can play in negotiating and implementing a loan agreement.

102. Participants in one UNITAR-sponsored workshop on a number of occasions also drafted sets of recommendations for sound legal practice in debt management; this was virtually an invitation to those to whom the recommendations were submitted to allow lawyers greater involvement. Further, an appeal was addressed to these lawyers to join efforts in persuading those concerned that their respective countries' interests would be better served by systematic involvement of lawyers in debt management.

103. UNITAR hopes to make a contribution to better-managed development by drawing attention to a perceived need and enlisting support, political as well as financial, in training lawyers in the techniques of loan negotiation and management on a permanent basis. Obviously, this initiative is only one element in a much wider developmental process.

Promotion of cooperation in environment-development negotiations

104. Within this newly developed programme, one training module deals with negotiations and dispute resolution. It provides training on negotiation skills that promote mutual gain and consensus. The various functions/uses of negotiation are treated in detail to promote skills in utilizing negotiations - as a method for resolving disputes or conflicts, as a way of joint problem solving and as a means of exchanging information and understanding each other's interests. The module aims at exposing participants to a number of techniques and tools that can help them effectively manage practical and concrete negotiations, including brainstorming, interest clarification, use of single-text in multilateral negotiations, effective chairmanship, etc. Special attention will also be given to the principal/agent relationship pervasive between Governments and their diplomats, and to cross-cultural negotiations.

Publications and dissemination of information on international law

105. UNITAR has the following publications scheduled for immediate production:

(a) New Horizons in International Law. The original edition was edited by Judge Elias, and UNITAR agreed to co-publish the updated edition. UNITAR and the Office of Legal Affairs of the United Nations jointly cooperated in the data entry and editing of the revised edition;

(b) International Law and Order: Desk Set of Basic Documents, by Professor Burns H. Weston and Bessie Dutton Murray. United Nations Publications proposed a joint-venture production of this work which elicited a great deal of interest on the part of the Institute, because of its training programme in the field. United Nations Publications placed an order for 5,000 copies of the book;

(c) Two recent books - The World Court: What It Is, and How It Works and Diplomats' Handbook of International Law - are both out of print. UNITAR is considering reprinting these two books;

(d) Debt Restructuring. This is a compilation containing summaries of presentations made by various UNITAR resource persons having extensive theoretical and practical experience in the field of debt management. The topics dealt with are considered and studied in depth in UNITAR seminars and workshops in the field of legal aspects of debt management, and include: rescheduling of the external debt (Clubs of Paris and London), arbitration, sovereign borrowing and the principles of budgetary law;

(e) Recommendations of Participants. This document compiles recommendations of lawyers and experts in various UNITAR seminars to their respective national authorities. These recommendations are made with a view to better understanding the role of the lawyer as well as improving the drafting and finalization of loan contracts;

(f) Good Debt Management Pays. This document includes contributions from experts on different aspects of debt management, highlighting especially the legal aspects thereof.

Other possible activities in the course of the United Nations Decade of International Law

106. In the recent past, UNITAR has received a growing number of requests to design and conduct diplomacy training courses in international law and the peaceful resolution of conflicts at the country and subregional levels. These requests come largely from developing countries in which training institutions are still weak or non-existent. Training courses organized *in situ* present a high cost/benefit ratio, as the cost of a mission of two resource persons typically allows the training of some 30 national civil servants. In order not to deprive government officials from developing countries of such opportunities, UNITAR is working to establish "tripartite" cooperation, where an industrialized country or a development agency provides funding to UNITAR to design and implement training courses in international law and the peaceful resolution of conflicts for civil servants in developing countries.

107. Finally, a rather quick and large expansion of the training programmes on legal aspects of debt management is expected in the years to come, thanks to the funding of the programme by UNDP.

108. This expansion will be most visible along the following six axes: follow-up training activities in East and West Africa; commencement of training activities in southern Africa; commencement of training activities in Asia and the Pacific; cooperation with other institutions; development of a networking arrangement for local capacity-building; building up an operational support unit/documentation centre for dissemination of information to reduce the information isolation of developing countries.

109. As regards participation of UNITAR in the International Law Fellowship Programme, attention is drawn to paragraphs 76 to 79 of the present report.

110. Finally, in the past, UNITAR used to conduct, on an annual or biennial basis, a two-week regional training and refresher course in international law for government legal advisers and young university teachers from the three main developing regions, rotating each year from one region to another. These courses aimed to bring together around 30 participants from countries of the particular region with the aim of updating and deepening their knowledge of recent developments in international law relevant to their countries. Distinguished lecturers and experts from the region, as well as from other parts of the world, would deliver the course curriculum, which would include, during the first week, various aspects of international economic law and the law of development and, during the second week, topics such as the peaceful settlement of disputes, law of the sea, international protection of human rights and diplomatic and consular law.

111. However, the resumption by UNITAR of these regional and refresher courses is dependent on several factors, namely, the finding of a suitable host country able to bear the subsistence allowance expenses for the participants, the making of voluntary contribution for financing the staff and lecturers' expenses and the streamlining of the International Law Fellowship Programme so as to allow part of the budgetary allocation of the Programme of Assistance referred to in paragraph 151 below to be applied to travel grants for participants in the regional refresher courses.

C. Activities of the United Nations Educational, Scientific and Cultural Organization

112. The UNESCO contribution for 1992-1993 to the Programme of Assistance in the Teaching, Study, Dissemination and Wider Appreciation of International Law forms part of major UNESCO programme area VII, the UNESCO contribution to peace, human rights and the elimination of all forms of discrimination, and falls more specifically within the scope of subprogramme VII.1.1, Promotion of peace and international understanding, of the programme and budget for 1992-1993 approved by the General Conference at its twenty-sixth session (15 October-7 November 1991).

113. The aim of these activities is to develop the role of UNESCO in the teaching of international law and research in that field. These activities primarily involve the following publications:

Publications already issued

> Droit international: Bilan et perspectives, volumes 1 and 2. Mohammed Bedjaoui, general editor (Paris, UNESCO and Editions A. Pedone, 1991), 1,361 pages. The same work exists in English in a single volume: International Law: Achievements and Prospects. Mohammed Bedjaoui, general editor (UNESCO, Paris, and Martinus Nijhoff Publishers, Dordrecht/Boston/London, 1991), 1,276 pages.

114. This is a thought-provoking reference work intended for students, specialists and anyone interested in the development of international law. The work is noteworthy for its range and for the number of contributions (over 70) it contains from present and former Judges of the International Court of

Justice, professors of international law, ministers, diplomats and international civil servants chosen for their prominence in the field and on the basis of a wide geographical distribution; the work consequently reflects the diversity of contemporary legal cultures.

115. The authors have given due consideration to the issues of friendly relations and cooperation among States, the prohibition of war and interdiction of the use of force in international relations, disarmament, the peaceful settlement of disputes and possible solutions to the problems of disparities in development and underdevelopment that give rise to conflict situations. The work also examines the concepts and the place of the individual and peoples in international law, as well as human rights, including the right to peace, the right to the environment and the right to development. The progress achieved during this century in international law, in particular as a set of principles and standards, is well known. With the year 2000 not far off, it was therefore only natural that the final chapter should be devoted to the future of international law.

> World Directory of Peace Research and Training Institutions, 7th ed., 1991. 354 pages. This directory, which was first issued in 1966 under the title International Repertory of Institutions Specializing in Research on Peace and Disarmament, now covers both research and training institutions and is intended to promote awareness of and activities in favour of peace and international understanding. It includes the following sections:

I. Index of names and acronyms of institutions;

II. List of entries: international/regional institutions, national institutions;

III. Index of research subjects with indication of the host country of the institution;

IV. Geographical index;

V. Index of senior staff involved in peace activities;

VI. Index of courses and subjects taught, with indication of the host country of the institution;

VII. Index of institutions providing scholarships.

116. This working tool, which deals with the international, regional and national institutions of over 60 countries, seems well suited to contribute to the nurturing of a culture of peace.

> World Directory of Human Rights Teaching and Research Institutions, 2nd ed., 1992. 290 pages.

117. This publication provides a listing of the research and teaching institutions in the field of human rights and also identifies non-governmental organizations that deal more specifically with documentation on human rights.

Peace and conflict issues after the cold war. 1991. 226 pages, in the UNESCO collection "Studies on Peace and Conflict".

118. This work examines not only questions relating to conflicts but also the concept of "cultivating peace".

Forthcoming publications

119. As part of the Programme of Activities for the second term (1993-1994) of the United Nations Decade of International Law, two works are currently in preparation: (a) the third edition of the World Directory of International Law Research and Training Institutions and (b) a summary of the contribution of UNESCO to the teaching of international law.

Other projected activities

120. In addition, the creation of a number of UNESCO chairs of international law, which will subsequently form an integrated network, is aimed at strengthening inter-university cooperation and academic mobility through UNITWIN partnerships.

121. The purpose of these chairs will be:

(a) To introduce advanced courses and to carry out research in the field of international law in close cooperation with the United Nations University, the International Law Association and NGOs specialized in higher education;

(b) To promote cooperation between institutions of higher education in the developed and the developing countries and to provide assistance to the latter in establishing programmes of teaching, training and research in the field of international law.

D. Other activities reported by States and international organizations concerning the teaching, study, dissemination and wider appreciation of international law pursuant to General Assembly resolutions 46/53 and 47/32

122. The report of the Secretary-General to the General Assembly at its forty-seventh session on agenda item 128, "United Nations Decade of International Law", 31/ in its chapter II.D, contained an analytical compilation of other activities reported by States and international organizations carried out in implementation of chapter IV of the programme of activities for the first term (1990-1992) of the Decade under General Assembly resolution 46/53 of 9 December 1991, concerning the teaching, study, dissemination and wider appreciation of international law (see para. 3 above).

123. Those activities have been grouped under nine headings, which correspond by and large to the substance of the various paragraphs contained in chapter IV of the programme of activities for the first term of the Decade. The headings are: promotion of international law in general among the public; promotion of the United Nations Programme of Assistance in the Teaching, Study, Dissemination and

Wider Appreciation of International Law; promotion of the teaching of international law for students and teachers at schools and at higher education levels and international cooperation for that purpose; organization of international and regional seminars and symposia for experts on international law; training in international law for legal professionals and government officials organized by States and international organizations; publication of the practice of States, international and regional organizations in the field of international law; wider publication of the judgments and advisory opinions of the International Court of Justice; wider publication of the judgements and advisory opinions of other international courts and tribunals and summaries thereof; and publication by international organizations of treaties concluded under their auspices, publication of the United Nations Treaty Series and the United Nations Juridical Yearbook.

124. Likewise, the report of the Secretary-General to the General Assembly at its forty-eighth session on agenda item 142, "United Nations Decade of International Law", 32/ in its chapter II.D contains an analytical compilation of other activities reported by States and international organizations carried out in implementation of Chapter IV of the programme of activities for the second term (1993-1994) of the Decade under Assembly resolution 47/32, concerning the teaching, study, dissemination and wider appreciation of international law (see para. 4 above).

125. Those activities have been grouped under eight headings which correspond, by and large, to the substance of the various paragraphs contained in chapter IV of the programme of activities for the second term of the Decade. The headings are: promotion of the United Nations Programme of Assistance in the Teaching, Study, Dissemination and Wider Appreciation of International Law; promotion of the teaching of international law for students and teachers at schools and at higher education levels and international cooperation for that purpose; organization of international and regional seminars and symposia for experts on international law; training in international law for legal professionals and government officials organized by States and international organizations; publication of the practice of States, and international and regional organizations in the field of international law; publication by States and international organizations of international legal instruments and legal studies; wider publication of the judgements and advisory opinions of international courts and tribunals and summaries thereof; and publication by international organizations of treaties concluded under their auspices, publication of the United Nations Treaty Series and the United Nations Juridical Yearbook.

126. Consequently, chapter II.D of the above-mentioned report 33/ should be considered an integral part of the present report.

III. GUIDELINES AND RECOMMENDATIONS REGARDING EXECUTION OF THE PROGRAMME IN THE BIENNIUM 1994-1995, WITHIN THE FRAMEWORK OF THE UNITED NATIONS DECADE OF INTERNATIONAL LAW

A. General observations

127. In chapter IV, paragraph 1, of the programme for the activities to be commenced during the first term (1990-1992) of the United Nations Decade of International Law (General Assembly resolution 45/40, annex), the Advisory Committee on the United Nations Programme of Assistance in the Teaching, Study, Dissemination and Wider Appreciation of International Law is requested "to formulate relevant guidelines for the Programme's activities and to report to the Sixth Committee on the activities carried out under the Programme in accordance with such guidelines". A similar request is contained in chapter IV, paragraph 1, of the Programme for the activities for the second term (1993-1994) of the United Nations Decade of International Law (General Assembly resolution 47/32, annex) clarifying that the formulation of guidelines should be "as appropriate and in a timely manner". Furthermore, in paragraph 17 of resolution 46/50 the General Assembly requested the Secretary-General to report to the Assembly at its forty-eighth session on the implementation of the Programme during 1992-1993 and, following consultations with the Advisory Committee, to submit recommendations regarding the execution of the Programme in subsequent years.

128. The paragraphs below contain the guidelines and recommendations requested by the General Assembly in the above-mentioned resolutions. In formulating such guidelines and recommendations, account has been taken of the fact that, while developing and systematizing the objectives of the United Nations Decade of International Law, the above-mentioned resolutions did not provide new budgetary resources for the teaching, study, dissemination and wider appreciation of international law, but relied, instead, on financing such activities from the existing overall level of appropriations and voluntary contributions from States (see General Assembly resolution 45/50, annex, chap. V, para. 5; resolution 44/28, paras. 10-12; resolution 47/32, annex, chap. I, para. 6; resolution 44/50, paras. 14-16).

129. Therefore, in substance, the paragraphs below recommend continuation by the United Nations and other agencies of the present activities under the programme and to develop and expand them if new funds become available through the above-mentioned sources. New activities should only be undertaken if the overall level of appropriations or voluntary contributions from States make them possible. States should be encouraged to continue implementing the objectives relating to the teaching, study, dissemination and wider appreciation of international law which the programme for the Decade devolves upon them, and should report to the Secretary-General any further development in this area.

B. Activities of the United Nations

130. Geneva International Law Seminar. It is expected that, if sufficient voluntary contributions from States continue to be made, new sessions of the Seminar will be held in 1994 and 1995 in conjunction with those of the International Law Commission. Scheduling of the sessions of the Seminar should be done in such a way as to make it financially possible for international law fellows selected for scheme (b), referred to in paragraph 8 above, also to participate in such sessions. In connection with the organizations of the Seminar, attention is also drawn to paragraph 16 above.

131. Activities of the Office of Legal Affairs:

(a) Public international law and other activities. During the biennium 1994-1995, the Office of Legal Affairs and its Codification Division are expected to continue performing the various functions connected with the goals of the Programme, as described in the present report, namely, participation in the International Law Fellowship programme; the training of interns; lecturing on international law topics; secretariat functions to the Advisory Committee and to the Sixth Committee on the item concerning the United Nations Programme of Assistance and the dissemination of information regarding the codification and progressive development of international law and the United Nations Decade of International Law;

(b) Activities concerning the law of the sea and ocean affairs: the Hamilton Shirley Amerasinghe Memorial Fellowship. It is expected that, seven fellowships having already been awarded during the past seven years, the Office of Legal Affairs will continue to award at least one fellowship annually, in accordance with the rules and guidelines referred to in paragraph 28 above. In this connection, however, attention is drawn to paragraph 34 above;

(c) Activities concerning international trade law. The steps to promote training and assistance in international trade law are of particular concern to developing countries, and the activities of the UNCITRAL secretariat in this area are discussed in paragraphs 37 to 58 of the present report. The Secretary-General, through the International Trade Law Branch of the Office of Legal Affairs, will take the requisite action during the biennium 1994-1995 in order to implement the recommendations addressed to him in this regard by UNCITRAL and the General Assembly.

132. Publicity. It is expected that the United Nations Secretariat will continue its efforts to reduce the backlog of the United Nations Treaty Series and of the United Nations Juridical Yearbook in accordance with the plan of action referred to in paragraphs 60 to 64 above. Efforts should also be continued by the United Nations Secretariat to ensure the regular inclusion in the UN Chronicle of matters of legal interest.

133. Provision of United Nations legal publications. Copies of United Nations legal publications issued during 1994 and 1995 will be provided to the institutions in developing countries that have been receiving such publications under the Programme and to other institutions in the developing countries for which requests for such publications are made by the Member States concerned.

Each new request shall be reviewed on its own merits and the availability of the legal publication in question shall also be taken into account.

134. Fellowships and scholarships offered at national institutions. Information received from Governments regarding the fellowships and scholarships offered at national institutions will, at the request of those Governments, be circulated to all Member States.

135. International Law Fellowship Programme. For the reasons spelt out in paragraphs 76 to 79 above, the implementation of the International Law Fellowship Programme should be carefully evaluated in order to be in a position to take the most appropriate and cost-effective decisions in its regard. A number of fellowships, to be determined in the light of the above-mentioned review, should be awarded each year under the United Nations regular budget. An additional number of fellowships may also be awarded from the Trust Fund of the Programme of Assistance, depending on the amount of the voluntary contributions received each year and taking into account the advisability of ensuring against irregularities in the flow of voluntary contributions.

136. Extreme caution should be used in the allocation of sums from the Trust Fund to finance administration and other expenses of the Fellowship Programme. As in previous years, it is to be stressed that guidelines contained in General Assembly resolutions should be followed, in particular the desirability to use, as far as possible, the resources and facilities made available by Member States, international organizations and others; as well as the need, in appointing teaching experts for the seminars of the Fellowship Programme, to secure the representation of major legal systems and balance among various geographical regions.

137. As in previous years, maximum use should be made, in the implementation of the Fellowship Programme, of existing human and material resources of the Organization so as to achieve the best possible results within a policy of maximum financial restraint. To the extent possible, teaching experts for the special seminars should be recruited from among the Organization staff, bilingual in the official languages of the seminars, thus reducing to a minimum consultants' fees and travel expenses and making full use of the expertise of Organization staff in international law and related areas.

138. Upon the invitation of the Office of Legal Affairs, UNITAR should continue to participate in those aspects of the Fellowship Programme more in keeping with its organizational capabilities and in accordance with the guidelines set out above.

139. Other possible activities. As pointed out in paragraphs 128 and 129 above, new activities should be undertaken only if the overall level of appropriations of the United Nations budget or voluntary contributions from States make them possible. In this connection, the provision of advisory services of experts could be considered, with a view to broadening the impact of international law training courses, by sending specialists to various regions so that they could present their courses to a wide audience. Also in this connection, attention is drawn to the proposal in paragraph 195 below.

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C. Activities of the United Nations Institute for Training and Research

140. Paragraphs 95 to 111 contain an account of activities performed by UNITAR which are related to the teaching, study, dissemination and wider appreciation of international law. It is expected that, subject to appropriate funding, such activities may be continued during the period 1994-1995.

D. Activities of the United Nations Educational, Scientific and Cultural Organization

141. Within the framework set by its budgetary allocations, the UNESCO contribution to the United Nations Programme of Assistance in the Teaching, Study, Dissemination and Wider Appreciation of International Law will continue to develop during the biennium 1994-1995 by means of activities tending to strengthen further the specific role of UNESCO concerning the development of both the research and the teaching of international law.

E. Other activities by States and international organizations concerning the teaching, study, dissemination and wider appreciation of international law, pursuant to General Assembly resolution 47/32

142. States and international organizations should be encouraged to continue to execute and expand the activities contemplated under chapter IV of the programme for the second term of the United Nations Decade of International Law under General Assembly resolution 47/32 and to report to the Secretary-General any further development achieved by them in these areas.

IV. ADMINISTRATIVE AND FINANCIAL IMPLICATIONS OF UNITED NATIONS PARTICIPATION IN THE PROGRAMME

A. Biennium 1992-1993

143. Among the activities carried out under the Programme during 1992-1993, the following items were related to allocations of the regular budget: the supply of United Nations legal publications to institutions in developing countries; the provision of a minimum of 15 fellowships under the International Law Fellowship Programme; and assistance in the form of a travel grant for one participant from each developing country invited to regional training and refresher courses organized by UNITAR.

144. The cost of the handling and shipping of United Nations legal publications to institutions in developing countries has been covered under the relevant sections of the programme budget for the biennium 1992-1993 relating to Conference and Library Services, Distribution Service, and to Administration and Management, Office of General Services, Communications, and Mail Operations.

145. As for the cost of provision by the United Nations of a minimum of 15 fellowships each year and travel grants for participants in the regional

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seminars and refresher courses, the sum of $316,000 was included in the programme budget for the biennium 1992-1993, under section 9.62 (Legal activities, progressive development and codification of international law) of the programme budget for that biennium. Furthermore, and in accordance with paragraph 15 of General Assembly resolution 46/50, whereby the Assembly requested Member States, interested organizations and individuals to make voluntary contributions towards the financing of the Programme, the Secretary-General addressed a note on 3 March 1992 to Member States drawing their attention to paragraphs 14, 15 and 16 of resolution 46/50, and paragraph 10 of resolution 46/54 (contributions towards the International Law Seminar), as well as another letter of 24 February 1993 drawing their attention to the same paragraphs of resolution 46/50 and paragraph 13 of resolution 47/33 (contributions towards the International Law Seminar).

146. In that connection, subsequent to the issuance of the 1991 report of the Secretary-General, 20/ contributions from the Governments of the following countries were received in 1992 for the International Law Fellowship Programme: Argentina, $2,676; Austria, $1,282; and Greece, $3,000. In 1993, contributions were received from the Governments of Austria ($1,293) and Greece ($3,000).

147. For the International Law Seminar, the Governments of the following countries made contributions during 1992: Argentina, $3,000; Austria, $2,201; Cyprus, $500; Denmark, $4,729; Finland, $5,545; France, $8,289; Germany, $5,983; Hungary, $2,963; Jamaica, $424; Morocco, $671; Sweden, $5,000; and Switzerland, $3,497. In 1993, contributions were received from the Governments of the following countries: Austria, $2,156; Cyprus, $500; Denmark, $11,203; Germany, $10,397; Ireland, $3,945; Norway, $5,000; Sweden, $5,000; and Switzerland, $6,803.

148. For the Hamilton Shirley Amerasinghe Fellowship on the Law of the Sea, a contribution of $500 was received during 1992 from the Government of Cyprus.

149. For the UNCITRAL symposia, the Governments of the following countries made contributions during 1992: Argentina, $6,000; Australia, $8,800; Canada, $8,216; Cyprus, $500; Finland, $22,678; France, $37,738; and Switzerland, 35,000. 34/ During 1993, contributions were received from the Governments of the following countries: Canada, $6,959; Denmark, $4,688.

150. No contributions were received for the regional courses organized by UNITAR.

B. Biennium 1994-1995

151. Assuming that the guidelines and recommendations in paragraph 132 above regarding the provision of legal publications are adopted, the cost of handling and shipping the United Nations legal publications issued in 1994 and 1995 would be covered, as in previous years, by the estimates under the sections of the proposed programme budget for the biennium 1994-1995 relating to Conference and Library Services, Distribution Service, and to Administration and Management, Office of General Services, Communications and Mail Operations.

152. With regard to the provision of fellowships within the International Law Fellowship Programme during the biennium and possibly of travel grants for participants in UNITAR regional courses during 1994 or 1995, an amount of $323,900 is included in the proposed programme budget for the biennium 1994-1995 under section 7.50 (Legal activities, Progressive development and codification of international law) of the proposed programme budget for that biennium, assuming that the General Assembly approves the guidelines and recommendations on those programmes (see paras. 135-137 and 140 above).

153. The Secretary-General would repeat his efforts, if the General Assembly so decides, in requesting voluntary contributions to the Programme. It is proposed that, as in past years, the funds accruing from such contributions have, as a main goal, subject to considerations of a practical nature, the increase of the number of fellowship grants to candidates from developing countries in addition to the minimum that would be authorized by the General Assembly under the appropriations from the regular budget.

V. MEETINGS OF THE ADVISORY COMMITTEE ON THE UNITED NATIONS PROGRAMME OF ASSISTANCE IN THE TEACHING, STUDY, DISSEMINATION AND WIDER APPRECIATION OF INTERNATIONAL LAW

A. Membership of the Advisory Committee

154. In accordance with paragraph 18 of General Assembly resolution 46/50, the membership of the Advisory Committee for the period 1 January 1992 to 31 December 1995 is as follows: Bangladesh, Colombia, Cuba, Cyprus, Ethiopia, France, Germany, Ghana, India, Iran (Islamic Republic of), Italy, Kenya, Malaysia, Mexico, Netherlands, Nigeria, Romania, Russian Federation, Sudan, Trinidad and Tobago, Ukraine, United Kingdom of Great Britain and Northern Ireland, United Republic of Tanzania, United States of America and Uruguay.

B. Twenty-seventh session

155. In paragraph 17 of its resolution 46/50, the General Assembly requested the Secretary-General to report to the Assembly at its forty-eighth session on the implementation of the Programme during 1992 and 1993.

156. As part of the preparation of the report requested under the above resolution, the Secretary-General prepared an interim report covering the activities carried out during 1992 by the various bodies that participated in the execution of the Programme.

157. In order to discuss the Secretary-General's interim report, the Advisory Committee held its twenty-seventh session on 10 December 1992. The session was attended by the representatives of the following members of the Advisory Committee: Bangladesh, Cuba, Cyprus, Ethiopia, Malaysia, Mexico, Netherlands, Nigeria, Romania, Sudan, Trinidad and Tobago, United Kingdom of Great Britain and Northern Ireland, United States of America and Uruguay. Representatives of UNITAR and UNESCO also attended. The session was chaired by Mr. Morgan Adokwei Brown (Ghana), who was elected Chairman for the four-year

membership of the Advisory Committee running from 1 January 1992 to 31 December 1995. It was agreed that in case of absence of Mr. Brown his replacement in his Mission would act as Chairman of the Committee.

158. In the absence of the Legal Counsel of the United Nations, Mr. Vladimir Kotliar, Director of the Codification Division of the Office of Legal Affairs, represented the Secretary-General at the session. Mr. Manuel Rama-Montaldo, Senior Legal Officer, Codification Division, Office of Legal Affairs, acted as Secretary of the Advisory Committee.

159. The Advisory Committee considered the Secretary-General's interim report, which was introduced by the Director of the Codification Division of the Office of Legal Affairs on behalf of the Legal Counsel of the United Nations.

160. Several speakers stressed the fact that the Programme of Assistance had succeeded, over the span of almost three decades, in carrying out its goals, including during recent years of financial constraint for the Organization. These goals had produced long-term benefits in international relations as they had fostered a deeper knowledge and appreciation of the rules of international law among qualified candidates, whether in governmental or academic positions, particularly in developing countries. It was also stressed that the encouragement of the teaching, study, dissemination and wider appreciation of international law had been recognized by the General Assembly as one of the four main goals of the United Nations Decade of International Law.

161. In connection with the International Law Seminar, one representative inquired whether the lectures given by various members of the International Law Commission had ever been published and whether it might be feasible, through telephone or other technology, to undertake their simultaneous transmission to members of the Sixth Committee who might be interested in following them from New York. In this connection, the same representative recalled the useful informal exchange occasionally carried out through telephonic conference between some members of the International Law Commission and members of the Sixth Committee in New York on the work carried out by the Commission.

162. The Secretary of the Committee explained that, although called "lectures", the talks given to the International Law Seminar by members of the Commission were really seminar sessions where active participation by the students was encouraged. They were not at all in the form of written papers delivered from a podium. While their transmission to New York might be welcomed by some members of the Commission or some participants, others might feel inhibited by such a procedure, which might detract from the spontaneity of the whole exercise.

163. Another representative inquired about the means of selection of participants in the International Law Seminar.

164. The Secretary of the Committee explained that applications should be sent to the United Nations Office at Geneva, Legal Liaison Office. The Programme was open to international law lecturers and young government officials from both developing and developed countries, although fellowships were reserved for candidates from developing countries. The selection was done by a Committee composed of members of the Legal Liaison Office, members of the academic

community in Geneva and members of departments of the United Nations Office at Geneva dealing with matters of an international legal nature.

165. In connection with the UNCITRAL Congress held in New York from 18 to 22 May 1992 on "Uniform commercial law in the twenty-first century", one representative inquired whether a comprehensive report on the Congress would be published.

166. The representative of the International Trade Law Branch of the Office of Legal Affairs pointed out that paragraphs 190 to 192 of the report of UNCITRAL on the work of its twenty-fifth session 35/ contained a summary on the holding of the Congress. Furthermore, it was anticipated that papers presented by speakers at the Congress would also be published as a United Nations document.

167. Some representatives recalled the efforts of some delegations in getting the Treaty Section of the United Nations to publish the list of treaties of which the Secretary-General is a depository, in the other official languages of the Organization, in addition to English and French. They expressed satisfaction at the fact that such lists were about to be completed.

168. Satisfaction was also expressed at the accelerated pace at which the Summaries of Judgments, Advisory Opinions and Orders of the International Court of Justice was being published in all official languages of the Organization. One representative, in particular, pointed out the desirability of as wide a dissemination as possible of the above-mentioned publication at prices affordable in developing countries.

169. One representative pointed out that efforts should continue to be made to obtain the translation and publication of the judgments and advisory opinions of the Court in their entirety (1949-1992) into the other official languages of the Organization in addition to English and French. If this could not be done by the United Nations, owing to financial reasons, then perhaps by some entity outside the United Nations, which might be willing to finance the operation if there was a prior decision of the Organization to finance the translation and publication of the subsequent judgments and advisory opinions. That representative believed that such an offer existed with regard to the Spanish language.

170. The Director of the Codification Division recalled that the reasons why it had not been possible for the United Nations to undertake the full translation of the judgments and advisory opinions of the Court into the other official languages of the Organization in addition to English and French had been reflected in the previous report of the Secretary-General on the Programme of Assistance and considered by the Advisory Committee at its previous session (A/46/610, paras. 75-89). The publication of the Summaries referred to in paragraph 168 above had to be perceived as an effort of the Organization designed to compensate for the financial impossibility of undertaking the translation of the judgments and advisory opinions in question. As to private efforts in this connection, they were always welcome, but should not require any prior financial commitment by the Organization.

171. Some representatives pointed to the desirability of ensuring a wider dissemination of the work of the International Court of Justice, not only

through the wider accessibility of its judgments and advisory opinions but also through audiovisual means of dissemination, telephonic conferences between officials of the Registry and interested members of the Sixth Committee, etc.

172. One representative inquired whether the moving of UNITAR headquarters to Geneva would affect its collaboration with the Office of Legal Affairs.

173. The representative of UNITAR pointed out that in all likelihood this would not be the case, since a liaison office in New York was being contemplated, which would facilitate the above-mentioned relations.

174. One representative stressed what he perceived as the desirability that certain private works on international law, originally in English or French, be translated into languages of wide dissemination, such as Spanish, and pointed out that efforts should be made in this connection. In his view the main problems did not have to do with financing but with copyright. He referred, in particular, to the general courses of public international law of the Hague Academy and the Encyclopaedia of the United Nations. 36/

C. Twenty-eighth session

175. The Advisory Committee held its twenty-eighth session on 29 October 1993 in order to consider the draft report of the Secretary-General referred to in paragraphs 155 and 156 above. The session was attended by the representatives of the following members of the Advisory Committee: Cuba, Cyprus, Ethiopia, France, Germany, Ghana, Iran (Islamic Republic of), Italy, Kenya, Malaysia, Mexico, Netherlands, Romania, Russian Federation, Trinidad and Tobago, Ukraine, United Kingdom of Great Britain and Northern Ireland, United States of America and Uruguay. Representatives of the International Trade Law Branch and of the Division for Ocean Affairs and the Law of the Sea of the Office of Legal Affairs, as well as of UNESCO also attended. In accordance with paragraph 157 above, the session was chaired by Mr. Morgan Adokwei Brown (Ghana).

176. In the absence of the Legal Counsel of the United Nations, Miss Jacqueline Dauchy, Director of the Codification Division of the Office of Legal Affairs, represented the Secretary-General at the session. Mr. Manuel Rama-Montaldo, Senior Legal Officer, Codification Division, Office of Legal Affairs, acted as Secretary of the Advisory Committee.

177. The Advisory Committee considered the draft report of the Secretary-General, which was introduced by the Director of the Codification Division of the Office of Legal Affairs on behalf of the Legal Counsel of the United Nations.

178. The representative of the Division for Ocean Affairs and the Law of the Sea made a statement elaborating on the section of the draft report concerning the activities of his Division.

179. Speaking generally on the Programme of Assistance, some representatives referred to the useful goals it achieved in fostering the idea of an organized international community under the rule of law. They also pointed out that the recent expansion in the membership of the Advisory Committee as well as the

increased relevance that the Committee had acquired in the framework of the two successive programmes for the activities for the United Nations Decade of International Law were a clear indication of the degree of appreciation that the Advisory Committee enjoyed in the legal community of the Sixth Committee.

180. Referring generally to various components of the Programme of Assistance, such as the International Law Seminar, the Hamilton Shirley Amerasinghe Fellowship for the Law of the Sea and the International Law Fellowship Programme, one representative inquired about the system whereby the letters of invitation for the submission of candidates were sent to Governments. He wondered whether the most desirable system might not be to send the letters directly to the Permanent Missions of the Organization. They would subsequently channel the invitation to the appropriate authorities in their respective countries.

181. The Secretary of the Committee explained that there was some variance in the practice. In the case of the International Law Seminar, letters were sent both to the Permanent Mission at Geneva and to the United Nations Information Centres. As regards the International Law Fellowship Programme and the Hamilton Shirley Amerasinghe Fellowship for the Law of the Sea, letters of invitation were sent through the offices of the United Nations Development Programme or of the United Nations Resident Representatives in the respective capitals. He pointed out that in the future the practice could be made uniform by also sending, in the case of the International Law Fellowship Programme and the Amerasinghe Fellowship of the Law of the Sea, a copy of the respective letters to the Permanent Missions in New York.

182. With specific reference to the International Law Seminar, one representative suggested that the present number of about 24 participants per year could be enlarged so as to make possible the participation of candidates who might be sponsored by their own Governments and did not require the assistance of a fellowship. Another representative hoped for a fuller representation of Eastern European countries in the selected candidates for the seminar. Another representative, stressing the importance of the Geneva Seminar, pointed out the need for an increased number of voluntary contributions so as to enable more candidates from developing countries to attend the seminar.

183. Noting the great number of international legal meetings which were reflected in various parts of the draft report of the Secretary-General under consideration, one representative pointed out the desirability of having the Secretariat prepare an annual list of scheduled international legal meetings relating to the teaching, study, dissemination and wider appreciation of international law, in the framework of the Decade and of the Programme of Assistance. That list, he added, could then be informally circulated to interested delegations in New York.

184. The Director of the Division pointed out that if such a list were to be prepared, it should be as broad-based as possible. The information reflected could be gathered through the inclusion of an appropriate paragraph in the annual letter that the Secretariat sends to States, international organizations and academic institutions in connection with the United Nations Decade of International Law.

185. In connection with the Amerasinghe Fellowship on the Law of the Sea, one representative wondered why, since the inception of the Programme, only one fellowship had been awarded each year.

186. The representative of the Division for Ocean Affairs and the Law of the Sea pointed out that the reasons were exclusively financial. The fellowship was financed from the interest of a trust fund which, by and large, had remained unchanged during the last few years, while, on the other hand, the rates of interest had substantially gone down. The fellowship was a very complete one, involving travel and nine months subsistence allowance, all of which amounted to about US$ 20,000. He stressed the desirability of further voluntary contributions to ensure the future of the fellowship, which would thus be able to continue its role of fostering a better understanding of the provisions of the United Nations Convention on the Law of the Sea in the countries of the selected fellows; even more now, in view of the forthcoming entry into force of the Convention.

187. In connection with paragraph 63 of the report, one representative wondered whether the cost of making available through on-line access the contents of the entire United Nations Treaty Series would be covered under existing resources of the United Nations.

188. The Director of the Division explained that the financing of the project would be ensured in accordance with the regular budgetary procedures and under the control of the financial organs of the United Nations.

189. As regards paragraph 75, on fellowships offered at national institutions, one delegation inquired whether universities could send offers of national fellowships for developing countries directly to the Secretariat of the Programme or, rather through the Foreign Ministry of the country where the university was located.

190. The Secretary explained that in the past the latter had been, as a rule, the practice followed. Once in possession of an offer of a national fellowship, the Secretariat would transmit it to all Permanent Missions in New York.

191. Several representatives referred to the possibility of organizing regional refresher courses in international law.

192. One representative, supported by others, suggested that regional refresher courses in international law could be organized in various regions and the costs shared by the United Nations and the host country.

193. In this connection, one representative inquired why UNITAR had not been in a position to organize regional courses in the biennium 1992-1993.

194. The Secretary drew attention to paragraphs 76 to 79 and 110-111 of the report and pointed out that the reasons had been exclusively financial.

195. One representative, in particular, pointing out the importance that regional integration has for his country, expressed his country's interest in obtaining assistance from the United Nations, particularly through the provision of teaching experts, in order to organize in the Diplomatic Academy of the

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Foreign Ministry at Montevideo, Uruguay, a course on certain aspects of the law of economic integration, particularly as it concerns the integration agreement known as Mercosur. Such a course could be open to Foreign Office officials of the four countries of the region making up Mercosur. The same representative stressed the need for improving the standard of technicians in this area of the law of integration as well as the advantages of holding the course in situ, which did not require sending valuable personnel, needed at home, on training trips abroad.

196. Referring to a seminar on preparation of reports on human rights, organized in 1985 in the Caribbean region by UNITAR with the assistance of the Ford Foundation and the Geneva Center for Human Rights, one representative recalled that, at the conclusion of the seminar, it had been agreed that, after a certain period, a review should be made as to how the participants had been able to utilize what had been learned at the seminar. Noting that a number of Caribbean countries were well behind in the submission of human rights reports, this representative felt that it might be timely to proceed to the above-mentioned review in order to determine, in the light of what those countries had done or not done in this area, what kind of additional assistance they might obtain in order to prepare those reports.

197. Some representatives referred to various publications related to the goals of the Programme of Assistance.

198. Satisfaction was expressed at the fact that the publication of the Summaries of Judgments, Advisory Opinions and Orders of the International Court of Justice, in all officials languages of the Organization had already been completed and that the success of the first edition of the English version had led to an early reprint. One representative, however, pointed out that in his own country he still had some difficulties in obtaining the number of copies needed for a wide academic circulation of the publication and hoped that the Sales Section of the United Nations Secretariat would find appropriate arrangements for improving the world-wide availability thereof.

199. Some representatives, expressing their satisfaction at the publication by UNESCO of the work International Law: Achievements and Prospects in English and French, also pointed out their interest in seeing the work published into other languages of wide dissemination, such as Spanish.

200. One representative referred to the "general course" which was part, every year, of the summer courses of the Hague Academy of International Law. He regretted that the written version of the general courses could not be purchased separately from the other volumes containing all the summer courses imparted on a given year, particularly as this annual collection of several volumes was very onerous. He suggested that the President of the Hague Academy's Curatorium should be approached in order to explore the possibility of obtaining the written version of the general courses separately.

201. The same representative referred to the ninth edition of Oppenheim's International Law, which had recently appeared in English. He pointed out the desirability that, as had been the case with the eighth edition, the ninth edition also be published in Spanish. He suggested that the Permanent Mission of Spain could be encouraged to establish contacts with the publisher of the

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eighth edition and explore the possibility of also translating the ninth edition.

202. Referring to participation in the Programme of Assistance in general, the same representative suggested that perhaps some other institutions, both inside and outside the United Nations, could be associated with the Programme. More particularly, he suggested that along the lines of the Hague Academy of International Law, which is an international private institution whose governing body, the Curatorium, has a wide measure of international representation, some national institutions for the study and dissemination of international law might also be interested in being associated with the United Nations Programme of Assistance. He suggested that the desirability of and the mechanism for establishing such an association could be explored.

203. Several representatives shared the view that while a number of interesting proposals had been made during the meeting, more detailed information on them would assist their consideration at future meetings of the Advisory Committee. In particular, attention needed to be given to the financial consequences of such proposals and the effect of undertaking the suggested projects on the ability to continue activities, both new ones and those already under way, within existing financial resources or through voluntary contributions from States.

204. At the conclusion of the discussion, the Advisory Committee adopted the draft report as a whole, including the guidelines and recommendations under General Assembly resolutions 46/50 and 47/32 reproduced in paragraphs 127 to 142 above.

Notes

1/ Resolutions 2204 (XXI) of 16 December 1966, 2313 (XXII) of 14 December 1967, 2464 (XXIII) of 29 December 1968, 2550 (XXIV) of 12 December 1969, 2698 (XXV) of 11 December 1970, 2838 (XXVI) of 18 December 1971, 3106 (XXVIII) of 12 December 1973, 3502 (XXX) of 15 December 1975, 32/146 of 16 December 1977, 34/144 of 17 December 1979, 36/108 of 10 December 1981, 38/129 of 19 December 1983 and 40/66 of 11 December 1985, 42/148 of 7 December 1987 and 44/28 of 4 December 1989. Information concerning action taken under the Programme in previous years is contained in the following reports of the Secretary-General to the General Assembly: *Official Records of the General Assembly, Twenty-first Session, Annexes*, agenda item 86, document A/6492 and Add.1; ibid., *Twenty-second Session, Annexes*, agenda item 90, document A/6816; ibid., *Twenty-third Session, Annexes*, agenda item 89, document A/7305; ibid., *Twenty-fourth Session, Annexes*, agenda item 91, document A/7740; ibid., *Twenty-fifth Session, Annexes*, agenda item 90, document A/8130; ibid., *Twenty-sixth Session, Annexes*, agenda item 91, document A/8505 and Corr.1 and 2; ibid., *Twenty-eighth Session, Annexes*, agenda item 98, document A/9242 and Corr.1; ibid., *Thirtieth Session, Annexes*, agenda item 117, document A/10332; ibid., *Thirty-second Session, Annexes*, agenda item 114, document A/32/326; ibid., *Thirty-fourth Session, Annexes*, agenda item 111, document A/34/693; ibid., *Thirty-sixth Session, Annexes*, agenda item 113, document A/36/633; ibid., *Thirty-eighth Session, Annexes*, agenda item 122, document A/38/546; ibid., *Fortieth Session, Annexes*, agenda item 128,

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document A/40/893; ibid., Forty-second Session, Annexes, agenda item 127, document A/42/718; ibid., Forty-fourth Session, Annexes, agenda item 138, document A/44/712; and ibid., Forty-sixth Session, Annexes, agenda item 124, document A/46/610.

2/ General Assembly resolution 44/23, preamble and paras. 1 and 2 (d).

3/ General Assembly resolution 45/40, first and second preambular paragraphs.

4/ General Assembly resolution 47/32, preambular paragraph 2 (d) and annex.

5/ Official Records of the General Assembly, Forty-fifth Session, Supplement No. 10 (A/45/10), chap. VIII, sect. E.

6/ Ibid., Forty-sixth Session, Supplement No. 10 (A/46/10), chap. VIII, sect. F.

7/ Ibid., Forty-seventh Session, Supplement No. 10 (A/47/10), para. 384, footnote 82.

8/ Ibid., Forty-eighth Session, Supplement No. 10 (A/48/10, para. 459, footnote 285.

9/ A/46/610 and Corr.1, para. 133, and General Assembly resolution 46/50, para. 1.

10/ Official Records of the General Assembly, Forty-seventh Session, Supplement No. 10 (A/47/10), para. 386.

11/ Ibid., Forty-eighth Session, Supplement No. 10 (A/48/10), para. 465.

12/ Ibid., Forty-seventh Session, Supplement No. 10 (A/47/10), para. 391 and ibid., Forty-eighth Session, Supplement No. 10 (A/48/10), para. 466.

13/ Ibid., para. 467.

14/ A/46/610 and Corr.1, para. 144.

15/ For a discussion on how the fellowship became integrated into the United Nations Programme of Assistance in the Teaching, Study, Dissemination and Wider Appreciation of International Law, see A/36/633, paras. 55-57 and 84-86.

16/ Official Records of the General Assembly, Thirty-sixth Session, Supplement No. 17 (A/36/17), para. 109.

17/ Ibid., Forty-second Session, Supplement No. 17 (A/42/17), para. 335.

18/ Ibid., Forty-eighth Session, Supplement No. 17 (A/48/17), paras. 329-338.

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19/ Such organizations and institutions include the following: Arab Commission for International Law, Asian-African Legal Consultative Committee, European Committee on Legal Cooperation, Inter-American Juridical Committee, Commission of the European Communities, the Hague Conference of Private International Law, International Institute for the Unification of Private Law, Organization of American States, The Hague Academy of International Law, European Economic Community, Latin American Economic System, League of Arab States and Organization of African Unity.

20/ A/46/610 and Corr.1, paras. 75-89.

21/ ST/LEG/SER.F/1 (United Nations publication, Sales No. E.92.V.5).

22/ See, for instance, vol. XXIX, No. 1 (March 1992), pp. 81, 83, 84, 89 and 90, containing notes or articles on the United Nations Conference on Environment and Development, human rights issues, United Nations Commission on Crime Prevention and Criminal Justice, the right to self-determination, the Declaration on Fact-finding and the Handbook on the Peaceful Settlement of Disputes. See also vol. XXIV, No. 3 (September 1992), pp. 66-67, articles or notes on the Rio Declaration on Environment and Development and on the United Nations Commission on Crime Prevention and Criminal Justice.

23/ A/46/610 and Corr.1.

24/ Developing countries whose institutions received United Nations publications include the following: Afghanistan, Argentina, Bangladesh, Bolivia, Brazil, Chile, Colombia, Costa Rica, Dominican Republic, Ecuador, Egypt, El Salvador, Ethiopia, Gabon, Guatemala, Honduras, Iceland, India, Indonesia, Jamaica, Kuwait, Lebanon, Madagascar, Mexico, Myanmar, Nicaragua, Pakistan, Peru, Philippines, Senegal, Sierra Leone, Sudan, Syrian Arab Republic, Tunisia, Uruguay, Venezuela, Zaire and Zimbabwe. See further discussion on the question during the seventeenth session of the Advisory Committee (A/38/546, paras. 83 and 84), at its nineteenth session (A/40/893, paras. 84-87) and at its twenty-third session (A/44/712, para. 120).

25/ Institutions from the following countries have been included among the recipients of publications from the International Court of Justice: Argentina, Brazil, Egypt, India, Morocco, Mozambique, Niger, Pakistan, Papua New Guinea, Poland, Spain, Syrian Arab Republic, Viet Nam and Zimbabwe.

26/ Those recently established information centres are located at Brazzaville, Dhaka, Harare, Managua and Ouagadougou.

27/ The selected fellows from Albania and Egypt were unable to take up their fellowship and could not be replaced owing to late notification. This reduced the number of trainees to 17.

28/ The participant from Paraguay could only follow the Hague part of the Programme. The participant from Zimbabwe did a short-time internship with the International Committee of the Red Cross in Geneva.

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29/ In 1992, the following professors were in charge of the Hague special seminars: Mr. Paul Berthoud, Senior Special Fellow, UNITAR European Office; Mr. Antoine Bouvier, Office of Legal Affairs, International Committee of the Red Cross, Geneva; Mr. Erik Chrispeels, Senior Legal Adviser, United Nations Conference on Trade and Development, Geneva; Mr. Hamid Gaham, Legal Division, Centre for Human Rights, Geneva; Mr. V. Y. Ghebali, Graduate Institute of International Studies, Geneva; Mr. Achim Halpaap, Programme Officer, UNITAR European Office; Mr. Ivor C. Jackson, Former Deputy Director, Division of Refugees Law and Doctrine, Office of the United Nations High Commissioner for Refugees, Geneva; Mr. Rolf Knieper, Dean, Faculty of Law, University of Bremen, Germany; Mr. F. T. Liu, Special Adviser to the International Peace Academy; former United Nations Assistant Secretary-General for Special Political Affairs, New York; Mr. Johan G. Lammers, Legal Adviser, Dutch Ministry of Foreign Affairs, The Hague; Mr. Hisham Rifai, Senior Special Fellow, UNITAR, New York; Mr. Manuel Rama-Montaldo, Secretary of the Programme of Assistance and Senior Legal Officer, Codification Division, United Nations Office of Legal Affairs, New York; Mr. I. Rummel-Buska, Coordinator, Interim Secretariat for the Basel Convention, Geneva; and Mr. Nico Schrijver, Senior Lecturer in International Law and International Relations, Institute of Social Studies, The Hague.

30/ In 1993, the following professors were in charge of the Hague special seminars: Mr. Paul Berthoud, Senior Special Fellow, UNITAR European Office; Ms. Yolande Diallo, Human Rights Officer, Centre for Human Rights, Geneva; Mr. Michael Graf von Korff-Schmising, Federal Ministry of Economics, Bonn, Germany; Mr. Ivor C. Jackson, Former Deputy Director, Division of Refugees Law and Doctrine, Office of the United Nations High Commissioner for Refugees; Mr. F. T. Liu, Special Adviser, International Peace Academy, New York, former Assistant Secretary-General for Special Political Affairs; Mr. Umesh Palwankar, Legal Division, International Committee of the Red Cross, Geneva; Mr. Manuel Rama-Montaldo, Secretary of the Programme of Assistance and Senior Legal Officer, United Nations Office of Legal Affairs, New York; Mr. Hisham Rifai, Senior Special Fellow, UNITAR, New York; Prof. Nico Schrijver, Senior Lecturer in International Law and International Institutions, Institute of Social Studies, The Hague; Mr. Abdulqawi A. Yusuf, Representative/Officer-in-Charge, UNCTAD, New York; Ms. Elisabeth Zoller, Professor in Public International Law, University of Strasbourg III.

31/ A/47/384 and Add.1.

32/ A/48/312.

33/ See notes 31 and 32.

34/ The general contribution of Switzerland of $35,000 has been applied to the symposia organized by UNCITRAL.

35/ *Official Records of the General Assembly, Forty-seventh Session, Supplement No. 17* (A/47/17).

36/ 2nd ed. (London: Taylor and Francis, 1990).

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Forty-eighth session
Agenda item 37

ZONE OF PEACE AND COOPERATION OF THE SOUTH ATLANTIC

Letter dated 4 November 1993 from the representative of Nigeria to the United Nations addressed to the Secretary-General

On the instructions of my Government, and in my capacity as Coordinator of the Zone of Peace and Cooperation of the South Atlantic, I have the honour to forward herewith a copy of the Declaration that was issued after the consultations held at ministerial level by States members of the Zone on 5 October 1993 in New York (see annex).

I should be grateful if you would circulate the text of the present letter and the Declaration as an official document of the General Assembly under agenda item 37.

(*Signed*) Isaac E. AYEWAH
Ambassador
Deputy Permanent Representative

ANNEX

Declaration of the Ministerial Meeting of the Zone of Peace and Cooperation of the South Atlantic of 5 October 1993

1. Member States of the Zone of Peace and Cooperation of the South Atlantic held consultations in New York at ministerial level on 5 October 1993, under the chairmanship of Nigeria as Coordinator, in which the following countries participated: Angola, Argentina, Benin, Brazil, Cameroon, Cape Verde, Congo, Gambia, Ghana, Guinea, Guinea-Bissau, Liberia, Namibia, Nigeria, Senegal, Sierra Leone, Togo and Uruguay, and adopted the following Declaration of the Ministerial Meeting of the Zone of Peace and Cooperation of the South Atlantic of 5 October 1993.

2. The Ministers reviewed the international situation since the end of the cold war and reiterated the continuing validity of the Zone as a relevant and viable instrument of multilateral cooperation among its members and reaffirmed the capacity of the forum to contribute to the promotion of international peace and security.

3. They reaffirmed their commitment to reinvigorate and sustain the momentum of support which the Zone requires in order to fulfil its obligations to member States in the pursuit of their collective aspirations.

4. They reiterated that zonal peace and cooperation must be seen in an integrated, mutual and self-reinforcing manner and in their efforts to concretize them, they must avail themselves of the structures and competences available in member States in the political, economic, social, humanitarian, environmental and developmental fields.

5. The Ministers noted with interest that the meeting of the Ministers of Trade and Industry of the Zone which was to have taken place in Namibia in September 1993 has now been rescheduled for 25 and 26 November 1993.

6. The Ministers recalled the conclusions of the second high-level official meeting held at Abuja, Nigeria, and emphasized the need for holding such meetings on a regular basis beginning from 1994. They underscored the political importance of holding such meetings in the capital of a member State.

7. The Ministers stressed the importance of the attainment of the objectives of the 1964 Declaration of the Organization of African Unity on the Denuclearization of Africa and the 1967 Treaty for the Prohibition of Nuclear Weapons in Latin America and the Caribbean, known as the Treaty of Tlatelolco, and its Additional Protocols I and II. Such mechanisms, once in effect, could be strengthened by the adoption of additional measures such as a treaty on the denuclearization of the South Atlantic.

8. The Ministers took note of the Brazilian proposal to undertake a study on the prospect of a treaty on the denuclearization of the South Atlantic.

9. The Ministers stressed the importance for the Zone of the results of the United Nations Conference on Environment and Development, held at Rio de Janeiro

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from 3 to 14 June 1992, in particular the principles of the Rio Declaration on Environment and Development and the programmes set forth in Agenda 21 as well as the United Nations Framework Convention on Climate Change and the Convention on Biological Diversity in the conviction that their full implementation will strengthen the basis for further cooperation within the Zone.

10. They recognized the need for States of the Zone to contribute further to these efforts, particularly those with relevant capabilities to consider possible cooperation with interested member States towards the establishment of joint monitoring mechanisms in the South Atlantic, including coastal watch of toxic dumps.

11. In this connection, they took note with satisfaction of the proposal made by Brazil for the negotiation among the South Atlantic countries of an appropriate instrument on marine protection as a complement to the United Nations Convention on the Law of the Sea and as a follow-up to the relevant part of Agenda 21, particularly chapter 17.

12. The Ministers reviewed the adverse international economic environment and the importance of enhanced cooperation in economic and financial matters and agreed that coordination of policies in various forums would contribute significantly to the realization of the objectives of the Zone. In this connection, they took note with satisfaction of General Assembly resolution 47/181 and stressed the importance of "An agenda for development" and urged States Members of the United Nations to lend their full support to the Secretary-General in the elaboration of that agenda.

13. They noted the importance of scientific and technical cooperation in furthering the principles and objectives of the Zone and, in this respect, stressed the need for increased exchange of information on research and development of the resources of the region.

14. The Ministers reiterated their full support for the efforts of the international community, especially the recent Security Council resolutions aimed at achieving a permanent resolution of the conflicts in Angola and Liberia.

15. The Ministers welcomed the agreement reached between the Governments of Namibia and South Africa setting 28 February 1994 as the date for the transfer and reintegration of Walvis Bay and the off-shore islands into Namibia, in accordance with Security Council resolution 432 (1978).

16. The Ministers also commended the Government of the Republic of Namibia for successfully achieving this noble goal through peaceful means.

17. The Ministers noted with interest the political developments within South Africa leading towards a united, non-racial, democratic South Africa and urged all parties concerned in South Africa to cooperate with a view to ending the continuing violence, thereby creating an environment conducive to the establishment of an interim government and the subsequent holding of democratic elections in the country.

18. The Ministers expressed the hope that the Zone would continue to be an active instrument for fostering human rights, fundamental freedoms, racial equality, justice and liberty as integral elements of peace, development and cooperation at national and regional levels.

19. The Ministers welcomed with appreciation the offer by the Government of Brazil to host the next high-level official meeting of the Zone simultaneously with the meeting of high officials in charge of sports and youth affairs during the second part of 1994.

20. The Ministers decided to constitute the Permanent Missions of Member States in New York as the Coordinating Bureau of the Zone.

21. The Ministers expressed profound gratitude to the Government of Nigeria, which has been serving as Coordinator of the Zone since it last met at Abuja, Nigeria, in 1990.

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GENERAL ASSEMBLY
Forty-eighth session
Agenda item 42
THE SITUATION IN BOSNIA
AND HERZEGOVINA

SECURITY COUNCIL
Forty-eighth year

Letter dated 5 November 1993 from the Permanent Representative of Bosnia and Herzegovina to the United Nations addressed to the Secretary-General

My Government has instructed me to request formally that you institute a full and public investigation of the charges that United Nations-mandated personnel in the Republic of Bosnia and Herzegovina may have failed to take necessary steps to stop, or even report, first-hand evidence of war crimes and concentration camps where Muslim and Croat women were held to be raped and sexually abused. More alarming is the possibility that some of these United Nations-mandated personnel may have actually taken part in these rapes and abuses as guests of the Serbian soldiers running these rape camps.

The article of 1 November 1993 in New York Newsday by Roy Gutman, when added to information previously given by other reputable sources, seems to add credibility to evidence that our Government has gathered with respect to these crimes. We have been reserved in our response up to this time.

Whether United Nations-mandated personnel actively participated in the crimes or were passive in the face of these crimes, this would constitute a violation of international law, including article 1 of the Geneva Conventions and Protocols, because there is an affirmative obligation to, at least, report violations of the Geneva Conventions and Protocols.

We request that the findings of your investigation be made public and that they be submitted to the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia, the Prosecutor's Office and the War Crimes Commission on the Former Yugoslavia. We will also report our evidence to these same international organs and ask them to pursue the matter. Our courts and legal system also remain available as venues for investigation and prosecution.

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Finally, in view of the fact that many United Nations-mandated personnel, Governments and non-governmental organizations have exhibited dedication, courage and sensitivity in aiding the people of Bosnia and Herzegovina, we look to cooperate actively with other Governments in identifying any wrongdoing by their nationals. We once again wish to thank sincerely the overwhelming majority of individuals and their Governments for their commitments and brave efforts in helping our people.

May I ask your kind assistance in circulating the present letter as a document of the General Assembly, under agenda item 42, and of the Security Council.

(Signed) Muhamed SACIRBEY
Ambassador and
Permanent Representative

UNITED NATIONS

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8 November 1993

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Forty-eighth session
Agenda item 54

QUESTION OF CYPRUS

Letter dated 5 November 1993 from the Permanent Representative of Turkey to the United Nations addressed to the Secretary-General

I have the honour to transmit herewith a letter addressed to you by His Excellency Mr. Osman Ertuğ, representative of the Turkish Republic of Northern Cyprus (see annex).

I should be grateful if the text of the present letter and its annex could be circulated as a document of the General Assembly under agenda item 54.

(Signed) İnal BATU
Ambassador
Permanent Representative

ANNEX

Letter dated 5 November 1993 from Mr. Osman Ertuğ addressed to the Secretary-General

I have the honour to refer to the statement made by the Greek Cypriot representative at the plenary session of the General Assembly on 2 November 1993, on agenda item 21 entitled "Return or Restitution of Cultural Property to the Countries of Origin".

The subject of cultural property is an issue which has been vastly exploited by the Greek Cypriot side in international fora in the absence of the Turkish Cypriot side. The Greek Cypriot representative's remarks on the cultural property in Cyprus, therefore, do not come to us as a surprise. However, his ethnocentric approach to the issue and the chauvinism and hypocrisy demonstrated by his statement have exceeded even our expectations.

According to the Greek Cypriot representative the Turkish-Islamic heritage of Cyprus does not even exist. This is evident in his deliberate omission of any reference to the rich, centuries-old Turkish-Islamic heritage of the island. In view of the fact that the Greek Cypriot side has been trying to eradicate this heritage for decades, this omission is understandable, although repulsive.

As part of the campaign to "Hellenize" the island and annex it to Greece (ENOSIS), the Greek Cypriot side had launched a virtual crusade against the Turkish-Islamic heritage of the island since 1963 in a mentality reminiscent of the Middle Ages. Archbishop Makarios, as the spiritual and political leader of this campaign, had taken a "holy oath" as early as 1950 not to "waiver from (their) policy of annexing Cyprus to mother Greece". Faithful to his oath till the end of his life he had announced later, on 4 September 1962, that "unless this small Turkish Community forming a part of the Turkish race which has been the terrible enemy of Hellenism is expelled from Cyprus the duty of the heroes of EOKA (acronym for the Greek Cypriot underground organization fighting for the union of Cyprus with Greece) can never be considered as terminated".

The forces of destruction unleashed by such pronouncements by Makarios, in addition to its human toll, also resulted in the complete or partial destruction of over 100 mosques and places of Muslim worship in 103 villages across the island. Among them were some of the holiest shrines of Islam in the island such as the Umm-Haram shrine in Larnaca, the Bayraktar Mosque in Nicosia and the Cami-i Cedit Mosque in Paphos.

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The willful destruction of Turkish-Islamic cultural property in the island is also attested to by impartial observers. For instance, Mr. Ymenus van der Werff, General Rapporteur of the Sub-Committee on the Architectural and Artistic Heritage of the Committee on Culture and Education of the Council of Europe, who came to the island with a delegation of experts to study the situation regarding cultural property in both parts of the island, reported the following in para.5.3 of his report which was published as a document of the Council of Europe on 2 July 1989 under the symbol AS/CULT/AA(41)1:

> "We noted with regret the complete destruction of the main mosque in Paphos. The whole area has since been flattened to give way for a widened road junction and a car park. There is no memorial to the existence of the mosque. Below the road a Turkish bath complex remains hidden in rubble and vegetation awaiting restoration. The Turkish Cypriot cemetery by the nearby St. Sophia Mouttalos mosque is dilapidated."

The same report, revealing the falsity of Greek Cypriot allegations of deliberate destruction of cultural property in the North, states the following in its paragraph 5.3:

> "We saw no churches destroyed though St. George in Limnia (in the North) was listed as such."

In fact, the baselessness and politically-motivated nature of the Greek Cypriot allegations on cultural property had been revealed much earlier, by a respected UNESCO expert who visited Cyprus twice in 1975. In a letter he wrote to the London Times later, Mr. Jacques Dalibard observed that "there was no systematic and organized looting of the cultural heritage of Cyprus. And on the whole considering that a war took place the losses are small."

Regarding the theft involving the "Kanakaria Mosaics", which the Greek Cypriot representative mentions in his statement, it is clear that the responsibility for this cannot be attributed to the authorities of the Turkish Republic of Northern Cyprus, who are doing everything they can for the protection and preservation of the cultural heritage of Northern Cyprus without any international assistance. No country, including Southern Cyprus, is immune to the smuggling of objects of artistic and cultural value from its soil. The following extract from para.5.1 of the above-mentioned Council of Europe report, while confirming this point, also indicates who bears responsibility for such incidents of cultural robbery.

> "The south is also vulnerable as the theft of the 'Leda and Swan' mosaic from the Paphos museum shows. Unfortunately the international art market is now well aware of the existence of a well-funded market in the south for items coming from the north."

Rather than searching for ways to cooperate with the Turkish Cypriot side on the universal issue of the protection and preservation of the common heritage of mankind, it is regrettable that the Greek Cypriot side, through its representative at the UN, has again chosen the blind path of accusing the Turkish Cypriot side and Turkey on this matter. Attempting to whip up historic prejudices and stereotypes by quoting from the romantic English poet Lord Byron, shows the extent to which the Greek Cypriot side can go in its anti-Turkish zeal and cultural chauvinism.

We believe that a more appropriate quotation for Cyprus would be the following lines from another great romantic poet of universal vision, William Blake:

> "Mysteries will never cease
> The priest longs for war, and the soldier, peace."

I shall be grateful if the present letter is circulated as a document of the General Assembly, under agenda item 21.

(Signed) Osman ERTUĞ
Representative
Turkish Republic of Northern Cyprus

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HUMAN RIGHTS QUESTIONS: HUMAN RIGHTS SITUATIONS AND REPORTS OF SPECIAL RAPPORTEURS AND REPRESENTATIVES

Situation of human rights in Afghanistan

Note by the Secretary-General

The Secretary-General has the honour to transmit to the members of the General Assembly the interim report on the situation of human rights in Afghanistan prepared by Mr. Felix Ermacora, Special Rapporteur of the Commission on Human Rights, in accordance with Commission on Human Rights resolution 1993/66 of 10 March 1993, and Economic and Social Council decision 1993/275 of 28 July 1993.

ANNEX

Interim report on the situation of human rights in Afghanistan prepared by the Special Rapporteur of the Commission on Human Rights in accordance with Commission resolution 1993/66 and Economic and Social Council decision 1993/275

CONTENTS

		Paragraphs	Page
I.	INTRODUCTION	1 - 14	3
II.	OUTLINE OF THE GENERAL SITUATION IN AFGHANISTAN	15 - 38	5
	A. Events in Afghanistan since the submission of the previous report	15 - 25	5
	B. Human rights problems in the light of the political and territorial structure of the country	26 - 32	7
	C. The international community and human rights in Afghanistan	33 - 38	8
III.	PROBLEM OF REFUGEES AND DISPLACED PERSONS	39 - 53	9
IV.	CIVIL AND POLITICAL RIGHTS	54 - 91	13
	A. Legal and factual framework	54 - 55	13
	B. Right to life and deliberate killing	56 - 64	13
	C. Personal liberty and the administration of justice	65 - 73	16
	D. Freedom of expression	74	17
	E. Other human rights issues, including the rights of women	75 - 91	18
V.	ECONOMIC, SOCIAL AND CULTURAL RIGHTS	92 - 95	21
VI.	SELF-DETERMINATION	96 - 101	22
VII.	CONCLUSIONS AND RECOMMENDATIONS	102 - 142	23
	A. Conclusions	102 - 127	23
	B. Recommendations	128 - 142	27

I. INTRODUCTION

1. The Special Rapporteur was first appointed to examine the human rights situation in Afghanistan in 1984 by the Chairman of the Commission on Human Rights, who had been requested to do so by the Economic and Social Council in its resolution 1984/37 of 24 May 1984. Since then, his mandate has been renewed regularly by the Commission, in resolutions endorsed by the Council, in which the Special Rapporteur was requested to report to the Commission and to the General Assembly. So far, he has submitted nine reports to the Commission (E/CN.4/1985/21, E/CN.4/1986/24, E/CN.4/1987/22, E/CN.4/1988/25, E/CN.4/1989/24, E/CN.4/1990/25, E/CN.4/1991/31, E/CN.4/1992/33 and E/CN.4/1993/42) and eight to the General Assembly (A/40/843, A/41/778, A/42/667 and Corr.1, A/43/742, A/44/669, A/45/664, A/46/606 and A/47/656).

2. At its forty-ninth session, the Commission on Human Rights decided, by its resolution 1993/66 of 10 March 1993, to extend the mandate of the Special Rapporteur for one year, an extension which was confirmed by the Economic and Social Council in its decision 1993/275 of 28 July 1993.

3. At its forty-seventh session, after considering the report submitted to it by the Special Rapporteur, the General Assembly, by its resolution 47/141 of 18 December 1992, decided to keep under consideration, during its forty-eighth session, the situation of human rights in Afghanistan in the light of additional elements provided by the Commission on Human Rights and the Economic and Social Council.

4. Subsequent to the renewal of his mandate by the Commission on Human Rights at its forty-ninth session, and in accordance with past practice, the Special Rapporteur again visited the area in order to obtain the most broadly-based information possible. He visited Pakistan on 13, 17, 18 and 20 September and Afghanistan on 14, 15, 16 and 19 September 1993.

5. Accordingly, the Special Rapporteur has the honour to submit his interim report to the General Assembly in compliance with Commission on Human Rights resolution 1993/66 and General Assembly resolution 47/141; the report was finalized on 28 October 1993.

6. During his visit to Pakistan, following the established schedule, the Special Rapporteur was received by representatives of the Ministry for Foreign Affairs and by the Chief Commissioner for Afghan Refugees. While in Islamabad, he also met with the Ambassador of Afghanistan, with whom he exchanged views on the overall situation in the country. In addition, the Special Rapporteur had talks with representatives of various humanitarian organizations.

7. In the North West Frontier Province, the Special Rapporteur visited a refugee settlement at Hayatabad, near Peshawar, where he spoke with persons who had fled Kabul during the heavy rocketing in 1992, and those who fled the city recently. He also visited the ISRA Mental Health Centre and the Afghan Disabled Society. While in Peshawar, the Special Rapporteur met the former President of Afghanistan and head of the Afghan National Liberation Front (ANLF), Mr. Sibghatullah Mojjadidi, the head of the Hezbe Islami (Khalis) political party, Maulavi Younis Khalis, and the representatives of the Council of

Nangarhar Province, Haji Baryalai and Mr. Said Elyas, with whom he exchanged views on the overall situation in the country. He also had talks with representatives of various humanitarian and other non-governmental organizations based in Peshawar, and with private individuals.

8. During his visit to Afghanistan, the Special Rapporteur was received, in accordance with the programme established in consultation with the Afghan authorities, by the President of Afghanistan, the First Deputy Prime Minister, the Minister for Refugee and Repatriates Affairs, the Minister for Frontier Affairs, the Minister of Finance, the Deputy Ministers for Foreign Affairs, the Deputy Minister of Justice and the Director for National Security. He also held informal talks with the Minister for Health. On his way to Afghanistan, the Special Rapporteur met with the Minister for Foreign Affairs in London.

9. In Kabul, the Special Rapporteur met representatives of the Afghan judiciary, including the Deputy Attorney-General, the Secretary and members of the Supreme Court, and the head and members of the Advisory Board of the Supreme Court. He also met the Mayor of Kabul, the head of the National Islamic Front of Afghanistan (NIFA), Pir Sayed Ahmed Gailani, the former Minister for Defence, Mr. Ahmad Shah Massoud, representatives of humanitarian organizations, and a number of private individuals.

10. While in Kabul, the Special Rapporteur visited the 400-bed Military Medical Academy Hospital. He also met representatives of the Afghan Red Crescent Society and the Afghan Women's Association. In addition, the Special Rapporteur visited the Saray Shah Zada area of Kabul, where he met members of the Afghan Sikh and Hindu communities, and the southern part of the city, in particular the area of the university, which was subjected to particularly heavy rocketing and artillery fire in 1992.

11. In Herat Province, the Special Rapporteur visited the city of Herat where he met the Governor, Mr. Ismail Khan, and visited the mass grave discovered in 1992 near that city. He also interviewed Afghan returnees from the Islamic Republic of Iran.

12. The Special Rapporteur wishes once again to express his sincere appreciation to the governmental authorities of Afghanistan and Pakistan and the provincial authorities of the area he visited in Afghanistan for the valuable assistance and full cooperation that they extended to him. In this respect, he once again wishes to thank the Office of the Secretary-General in Afghanistan and Pakistan, the Office for the Coordination of Humanitarian Assistance to Afghanistan, and the United Nations Development Programme (UNDP) for their most efficient logistical assistance, without which those visits would not have been possible.

13. For the purpose of drafting the present report in the most impartial and objective manner possible, in addition to gathering information during the visits to Pakistan and Afghanistan, the Special Rapporteur followed the course of events throughout the period covered, namely from March to October 1993, and systematically evaluated written and oral information relevant to his mandate received from various individuals and organizations. He has also consulted various reports prepared by United Nations bodies and specialized agencies, as

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well as those by non-governmental organizations which deal with the human rights and humanitarian aspects of the Afghan issue.

14. Section II of the present report provides an outline of the general situation in Afghanistan; and human rights problems are examined in the light of the prevailing political situation. Section III deals with the problem of refugees and displaced persons. In sections IV and V, civil and political rights and economic, social and cultural rights, respectively, are considered. The question of self-determination is examined in section VI. Section VII contains the conclusions and recommendations which the Special Rapporteur has drawn from the analysis of the available information.

II. OUTLINE OF THE GENERAL SITUATION IN AFGHANISTAN

A. Events in Afghanistan since the submission of the previous report

15. In his last report to the General Assembly (A/47/656), the Special Rapporteur referred to his visit to Afghanistan in September 1992 and the political events which had taken place there up to that date. In his last report to the Commission on Human Rights, in February 1993 (E/CN.4/1993/42), the Special Rapporteur described the situation of human rights in Afghanistan from September 1992 to February 1993, and set out the findings of his visit to the region in January/February 1993.

16. The Special Rapporteur is of the opinion that human rights reflect and are conditioned by the political situation in a given country. He believes, therefore, that it is necessary to provide a brief outline of the political developments which have taken place in Afghanistan in order to arrive at a better understanding of the human rights issues at stake.

17. On 29 December 1992, the Shura-Ahl-e-Hal Wa Aqd (Council for the solving of problems and making of agreements) was held in Kabul. Of the 1,336 delegates expected to participate, 230 did not attend, and the leaders of five of the nine political parties also boycotted the shura. Mr. Rabbani, the head of the Jamiat Islami political party, was the only candidate for the position of State president. He was elected by 916 votes in favour to 59 against. In his report to the Commission on Human Rights, the Special Rapporteur described the circumstances in which the shura was held (E/CN.4/1993/42, paras. 41-47). In spite of the widespread opposition to it, the shura became a political fact.

18. To solve the problems engendered by the contested shura, the representatives of the political parties which did not participate in its deliberations met in January 1993 at Jalalabad, the capital of Nangarhar Province, and issued a four-point declaration. In addition, various Afghan political factions presented alternative proposals aimed at solving the political crisis (see E/CN.4/1993/42, annexes I to IV).

19. None of those proposals could be implemented, however, and the existing political tensions were not reduced. The different political parties therefore accepted the initiative of King Fahd of Saudi Arabia and decided to meet at Islamabad. In addition to Saudi Arabia and the good offices of

Mr. Muhammad Nawaz Sharif, Prime Minister of Pakistan, the Islamic Republic of Iran supported the initiative and sent a special envoy to the conciliation talks. On 7 March 1993, a 10-point Afghan Peace Accord, to which was annexed a document entitled "Division of Powers", was adopted at Islamabad (for the texts, see S/25435).

20. The aforementioned political documents indicate that all the parties and groups concerned had agreed, inter alia, to the formation of a government for a period of 18 months, in which Mr. Burhanuddin Rabbani would remain President and Mr. Gulbuddin Hekmatyar or his nominee would assume the office of Prime Minister. A cabinet would be formed within two weeks of the signing of the Accord.

21. An independent Election Commission would be formed to hold elections for a Grand Constituent Assembly within eight months from the date of signature of the Accord. The Assembly would formulate a Constitution under which general elections for the President and the Parliament would be held within the 18-month period beginning on 29 December 1992. In addition, the Accord stipulated that a Defence Council would be set up and that all Afghan detainees held by the Government and different parties during the armed hostilities would be immediately and unconditionally released. Public and private buildings and properties occupied by different armed groups would be returned to their original owners. An all-party committee would be constituted to control the monetary system. A committee would also be set up to supervise the distribution of food and other essential commodities. A joint commission would supervise the cease-fire and cessation of hostilities.

22. The "Division of Powers" stipulated that the Prime Minister would form the Cabinet, which would work on the principle of collective responsibility. Differences would be resolved through discussion. The document also set out in detail the powers of the President and the Prime Minister. With regard to human rights, the President would have the power to commute and pardon sentences in accordance with the Shariah (Islamic law), and the Prime Minister could adopt measures to ensure public order, peace, security and Islamic morality, and to ensure the administration of justice by an independent and impartial judiciary.

23. As the implementation of the Afghan Peace Accord proved difficult, the leaders of the Afghan political parties met once again at Jalalabad between 30 April and 17 May 1993, reportedly under a certain amount of pressure to arrive at a concrete solution. They concluded and signed an accord in which, inter alia, a certain number of ministerial portfolios were distributed. However, the leaders of ANLF and NIFA did not sign a document containing a number of the decisions taken because they alleged that it violated human rights by imposing the veil on women. It was decided that during the two months following the signing of the Accord, the President would look after the Ministry of Defence while the Prime Minister would be in charge of the Ministry of the Interior. On 19 May, the party leaders decided that posts and privileges awarded during the communist regime would be revoked. Numerous persons who did not occupy high-ranking positions in the previous Government and were not accused of committing crimes have nevertheless kept their jobs in the current administrative apparatus, both in Kabul and in the provinces.

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24. The Accord concluded at Jalalabad contains the Charter of the Supreme Council of the Islamic State of Afghanistan, whose role appears to be to provide guidelines concerning the daily conduct of political affairs. The Accord also provides for the establishment of an Election Commission and sets out its Charter (see para. 100 below).

25. Mr. Gulbuddin Hekmatyar was sworn in as Prime Minister on 17 April 1993. He announced the formation of his Government the same month from Charasiab, a village located 25 kilometres from Kabul.

B. Human rights problems in the light of the political and territorial structure of the country

26. Despite the formation of an Islamic Government, the rivalry between the groups whose leaders or members are ministers in the coalition Government has continued and their differences have not been resolved through negotiation, as envisaged in the Islamabad and Jalalabad accords. The fighting in Kabul is mainly between the Hezbe Wahadat and Ittehad Islami forces and remains constant. In the beginning, the most serious fighting took place between the Shurae Nazar (composed of forces belonging to the Jamiat political party headed by President Rabbani and the party of Ahmad Shah Massoud, former Minister for Defence) and Hezbe Islami (Hekmatyar) headed by Prime Minister Hekmatyar. The mayor of Kabul informed the Special Rapporteur that, during the past year, approximately 36,000 houses were partly or fully destroyed while more than 30,000 were damaged as a result of this conflict. A representative of the Afghan Red Crescent Society said that it is estimated that 10,000 persons have been killed during the same period. Even in the past few months, approximately 100 persons have been killed in rocket attacks.

27. The present situation is such that the Prime Minister is reportedly unable to enter the capital, while the President is said to be unable to leave it beyond a radius of one kilometre. In a news interview, Prime Minister Hekmatyar recently stated: "I must say that Kabul has been divided into 12 independent zones, with specific 'Berlin Walls'". (The Frontier Post, 19 September 1993)

28. This "coalition" arrangement, whose principal feature is rivalry, is not automatically reflected in the governmental structure of the provinces. It would appear that the party structure is either non-existent or that the parties are grouped into different shuras (councils). The western part of the country, comprising areas which once made up the greater Herat Province, is governed by Ismail Khan, who became a prominent mujahid commander in the Herat area after leading the mutiny of the 17th Division of the Afghan army.

29. A number of provinces in the northern part of the country are governed by Abdul Rashid Dostom, a former militia leader, who was promoted to the rank of general by former President Mojjadidi. Recently he has had to face the conflict in neighbouring Tajikistan, whose effects have spilled over into Afghanistan. (For additional details, see S/26145 and S/26241.)

30. The eastern part of Afghanistan, in particular Nangarhar Province, is ruled by Governor Haji Abdul Qadeer, who heads a coalition of parties comprising the Nangarhar shura and the area was peaceful until February 1993. The first sign

of unrest was the ambush and killing of three members of United Nations personnel near the capital, Jalalabad, which the Special Rapporteur had visited the previous day.

31. The discord among the members of the shura was further accentuated at the beginning of September 1993 when the Deputy Governor of Nangarhar Province, Haji Shamali Khan, his brother and six of his associates were assassinated in Jalalabad. More than 80 persons are alleged to have been killed in the ensuing armed conflict, which began in the area of Sarobi on 10 October 1993 between the local Hezbe Islami commander and the forces of the Nangarhar shura. According to Le Monde of 16 October 1993, it has resulted in more than 100 deaths, principally among civilians, while several hundred persons were wounded.

32. Kandahar Province, in south-eastern Afghanistan, is also not free from conflict resulting from party rivalries. The particularity of the situation is that the rivalry between the two parties in conflict is not necessarily reflected in other parts of the country where their forces are present. Fighting has also taken place in Helmand Province and on 27 September 1993 in the north of the country. Only a few provinces are calm and more or less safe. Political problems in Afghanistan are solved partly through peaceful discussion, and partly by the use of arms which are spread throughout the country, and the latent unrest may erupt at any time.

C. The international community and human rights in Afghanistan

33. In spite of the decreasing interest of the world in Afghan affairs, United Nations bodies and non-governmental organizations are doing their utmost within the limits of their possibilities to help the population of Afghanistan, Afghan refugees and the country as a whole. Among the best sources of information on the assistance provided by the United Nations are the weekly reports published by the Office for the Coordination of Humanitarian Assistance to Afghanistan. They contain a survey of humanitarian operations carried out in different provinces, including efforts with regard to voluntary repatriation, the assistance given to Tajik refugees in Afghanistan, mine clearance, and pledges concerning contributions to the programme. The considerable discrepancy between the requirements and the resources actually available is clearly illustrated by the response to the consolidated appeal for emergency humanitarian assistance for Afghanistan launched in January 1993: of US$ 138.1 million requested for life-sustaining sectors, only $47 million were pledged by the end of September.

34. The Agency Coordinating Body for Afghan Relief (ACBAR) publishes information on the assistance provided to Afghanistan by non-governmental organizations in its news summaries, which also contain information about the political developments in the area.

35. In examining the situation of human rights in Afghanistan, the Special Rapporteur must take into account the fact that the country was subjected to foreign intervention for more than 11 years. The armed conflict continued after the withdrawal of Soviet troops and the demise of the former Government and the taking of power by the former opposition forces. The ensuing power struggle, which has been waged by distinctly undemocratic means, has become a pattern of behaviour and has had a disastrous effect on the situation of human rights.

36. Afghanistan is a party to various international human rights instruments, in particular the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. It is also a party to the Geneva Conventions. The human rights and humanitarian standards contained therein have always served as a parameter for the Special Rapporteur when assessing the situation of human rights prevailing in the country. The human rights principles contained in the Koran, and the relevant provisions of the Islamabad and Jalalabad accords, must also be taken into consideration.

37. The power struggle currently taking place in many parts of Afghanistan, in Kabul in particular, cannot be considered to be a *jihad* (holy war) and call to arms against invading infidels that used to be the major unifying factor for the different tribal, ethnic and religious groupings. The present conflict is not international in character under the Geneva Conventions and the motivations for a holy war have been replaced by jealousies and rivalry between parties or armed groups.

38. Among the issues considered in the ensuing section is the unprecedented scale of repatriation of Afghan refugees during 1992, which has declined dramatically in 1993. The fate and current situation of refugees continues to remain a human rights problem, which is compounded by the growing number of persons displaced inside Afghanistan. The enjoyment of civil and political rights continues to be one of the principal human rights problems. Additional problems are the disastrous economic situation in the wake of the war against occupation forces and the current power struggle, as well as the millions of mines scattered throughout the country. The power struggle also has a bearing on the question of self-determination, which was at the centre of the war against the occupation forces.

III. PROBLEM OF REFUGEES AND DISPLACED PERSONS

39. As indicated in the Special Rapporteur's report to the Commission on Human Rights (E/CN.4/1993/42) and in the report on the repatriation of Afghan refugees, 1992, prepared by the Office of the United Nations High Commissioner for Refugees (UNHCR) and dated 1 March 1993, 1.3 million Afghan refugees had returned to their country from Pakistan since April 1992.

40. In contrast to 1992 and despite initial forecasts for an equally massive repatriation movement in 1993, only about 300,000 Afghan refugees had returned to their country from Pakistan by September 1993, bringing the total number of returnees from Pakistan from April 1992 to September 1993 to 1.6 million persons. Since the beginning on 1 December 1992 of the assistance programme for Afghan refugees returning from the Islamic Republic of Iran, some 300,000 persons have returned. In addition to UNHCR, the World Food Programme (WFP) and the Governments of Pakistan and the Islamic Republic of Iran have assisted with the repatriation programme.

41. Although more than 120 administrative units in refugee camps have been closed and housing units destroyed for operational reasons in the North West Frontier and Baluchistan provinces of Pakistan, some 2 million Afghan refugees still remain in that country, 1.7 million of whom are registered.

42. On 21 October 1992, an agreement for the repatriation of Afghan refugees in the Islamic Republic of Iran was concluded between UNHCR and the Governments of the Islamic Republic of Afghanistan and the Islamic Republic of Iran. A similar agreement was concluded between UNHCR and the Governments of Afghanistan and Pakistan on 17 August 1993. In the preambles to those agreements, reference is made, inter alia, to the right of all citizens to leave and to return to their country of origin as enshrined in the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights. The agreements resulted in the establishment of Tripartite Commissions with the respective Governments, with the objective of facilitating the safe, orderly and voluntary repatriation of refugees and their successful reintegration in Afghanistan. Article 7 of the agreements outlines the human rights principles that are to guide the Commissions in their work.

43. The repatriation of Afghan refugees from Pakistan decreased dramatically in 1993, and there was also a reverse movement. Approximately 96,000 new refugees have come to Pakistan since April 1992, mostly from urban areas and principally as a result of the turmoil in Kabul. It is estimated that 20 to 25 per cent of the new refugees are those who had returned to Afghanistan in 1992. The Special Rapporteur was able to interview a number of them in September 1993, at Hayatabad, near Peshawar. They were living in shelters with no electricity, water, doors or at times even roofs, in unsanitary conditions, which have generated skin disorders and stomach and kidney problems, especially among children. Of the 600 to 700 families living there, only some 10 to 15 had ration booklets. They were also harassed by the local police. The reasons invoked by the new arrivals and by refugees who are reluctant to return are the absence of a stable and effective government, lack of security, the absence of an economic structure and activities, rocketing, destruction of their homes, the threat of rape and murder, corruption, the existence of extensive minefields, and the general lack of a congenial social environment.

44. During his last visit to Afghanistan, the Special Rapporteur was able to observe the destruction in both villages and cities. He visited the western part of Herat which has been razed. Extensive destruction has also taken place in a number of neighbourhoods in Kabul, such as the area of the university, the Silo area, Mirwais Maidan, Afshar, Karte Sé, Karte Char, Karte Nau, Kote Sangi and Khair Khana. He was also able to observe the destruction of agricultural land in the countryside around Jalalabad.

45. In addition to refugees, it is estimated that approximately one third of Afghanistan's population is displaced internally, and that between 100,000 and 600,000 persons left Kabul in 1992. During his visits to Afghanistan in September 1992 and January/February 1993, the Special Rapporteur visited camps for displaced persons near Jalalabad and spoke to displaced persons at Mazar-i-Sharif. They told him of their suffering and anxieties, and how little assistance they were receiving. Many were eyewitnesses to looting, killing and even rape, which were additional reasons for persons to become refugees or internally displaced. Some 35,000 persons fled from Faryab to Badghis Province

in September 1993 because of clashes between armed groups. In addition, it is estimated that some 7,000 Afghan families living near the border with Tajikistan had fled to Taloquan as a result of the conflict in that country.

46. Numerous refugees who were civil servants under the former Government have sought asylum in European countries but have encountered difficulties in obtaining it. In this connection, the Special Rapporteur would like to quote an opinion expressed in the report published by Amnesty International in September 1993 entitled "Afghanistan: Political Crisis and the Refugees" (AI INDEX: ASA 11/01/93):

> "Amnesty International believes that under the present circumstances the majority of Afghan asylum-seekers could become the target of serious human rights violations if returned to Afghanistan. ... An undated decree issued by the present Afghan President, Burhanuddin Rabbani, gives assurances that Afghans who have taken permanent or temporary residence abroad up to 23 April 1993 are entitled to obtain visas from the Afghan Consulates in their country of residence and will be allowed to visit Afghanistan as and when they wish. They will be entitled to an exit visa on arrival 'providing no unlawful act has been committed'. The decree does not specify what constitutes an 'unlawful act' which, in view of the disagreement between the Kabul Government's President and Prime Minister over the extent to which the Islamic law should override the criminal code, could be interpreted arbitrarily."

47. World public opinion has manifested a certain interest in the fate of members of the Sikh and Hindu communities which had settled in Afghanistan several centuries ago. At the time of the Special Rapporteur's visit to Kabul in September 1993, it was reported that 70 per cent of Sikh and Hindu families had left the city in 1992 because of intensive rocket attacks, looting and a general lack of security. Racial, ethnic or religious discrimination has not been cited as a reason for leaving. The heads of approximately half of the families which left in 1992 had reportedly returned to assess the security situation. The members of the Sikh and Hindu communities with whom the Special Rapporteur spoke expressed the wish that the Embassy of India in Kabul should be reopened. They stated that no women belonging to those communities were raped.

48. The Special Rapporteur's attention has been drawn to a specific problem concerning the situation of Afghan refugees in the Islamic Republic of Iran, namely, the forcible repatriation of thousands of persons which began in April 1993 but has intensified since June. Of the approximately 8,000 persons who crossed the border into Afghanistan in August, some 10 per cent are reported to have been deported, 570 of them on two consecutive days. Ninety-five per cent of the forcible departures were from Khorasan Province, from which 300 Afghan families were deported in July. The Special Rapporteur discussed the problem with the Minister for Refugee and Repatriates Affairs of Afghanistan.

49. During his visit to Herat, the Special Rapporteur heard a number of witnesses who provided him with detailed information on the circumstances of their deportation from the Islamic Republic of Iran. Men were often picked up in the street, at their place of work or from buses. Their identity cards would be confiscated or torn up on the spot, thereby depriving them of the

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authorization to reside in the country. Some were transferred immediately to the border while others were detained. A number of persons were forced to pay exorbitant taxes, abandon their profession or leave their businesses and homes. Pressure on Afghan refugees has also been exercised by cutting off their water and electricity supplies.

50. Additional problems faced recently by returning refugees in the north of Afghanistan were harassment and robbery. Armed men would ask for money and fuel. In a number of incidents in September and October 1993, refugees were caught in armed conflicts opposing regional forces which would simply confiscate the lorries to transport ammunition and food. Other refugees were forced to transport ammunition when they refused to get off the lorry. Medical or other assistance was often not provided to persons shot or injured during such incidents, in which a number of refugees were killed. The commander of the garrison in one locality beat a refugee who had spoken with the representatives of an international non-governmental organization. It has also been alleged that a number of local officials prevented refugees who had arrived in their towns from leaving for 25 or more days at a time.

51. The Minister for Refugee and Repatriates Affairs of Afghanistan informed the Special Rapporteur that the budget of his Ministry was insufficient for the integration of returning refugees and that international assistance was therefore required.

52. The Special Rapporteur has already indicated in his previous reports that the problem of mines is decisive with regard to the willingness of Afghan refugees to return to their country. It is also the reason why a number of repatriates have left their homes for the second time. According to the weekly update on humanitarian assistance for Afghanistan issued in mid-September 1993, 16 mine survey teams, 32 mine clearance teams, 27 mine detection dog teams and 9 mine awareness teams were working in 13 provinces in Afghanistan under mine clearance programme of the Office for the Coordination of Humanitarian Assistance to Afghanistan. The Government of Austria made a cash contribution of $180,000, with which 71 mine detectors were purchased.

53. Mine-blast injuries in Afghanistan continue to be very numerous. The Special Rapporteur was informed that some 1 million persons had lost limbs during the past 14 years, approximately 300,000 of whom had lost both limbs. Their number increased significantly after the massive repatriation of Afghan refugees in 1992. In his statement before the General Assembly at its forty-eighth session, the Minister for Foreign Affairs of Afghanistan indicated that approximately 300 persons fall victim to land-mines each month (A/48/PV.24). For example, 217 casualties were treated at Herat between 1 and 19 August 1993 at the clinic of the Organization for Mine Clearance and Rehabilitation. The First Deputy Prime Minister of Afghanistan informed the Special Rapporteur that the maps of minefields which the authorities of the Union of Soviet Socialist Republics had submitted to the former Afghan Government had been destroyed during the fighting in Kabul. The destruction of those maps, which the Special Rapporteur had been able to see during one of his earlier visits to the country, will considerably hamper the process of mine clearing.

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IV. CIVIL AND POLITICAL RIGHTS

A. Legal and factual framework

54. The present situation of human rights in Afghanistan can only be understood in the context of the broader political situation in that country. Needless to say, respect for human rights requires a stable government, the rule of law, an effective judicial system and the willingness to respect the fundamental principles of international human rights and humanitarian law. The Islamabad and Jalalabad accords contain a number of fundamental political principles which could have a bearing on the respect for human rights, but they are either not respected or have not been implemented.

55. Kabul, the capital, symbolizes the country's sovereignty and is a reflection of the welfare of the Afghan people in the eyes of the world. If the Government cannot guarantee the enjoyment of human rights even in the capital, then guaranteeing the enjoyment of human rights in the provinces is exclusively in the hands of provincial governors, regional rulers or local commanders who can choose whether or not to respect them, as they are not accountable to a central government. The Special Rapporteur wishes to emphasize that there is at present no Constitution in Afghanistan. However, persons who hold public office may choose to respect the human rights principles enshrined in the Koran. The Special Rapporteur will examine in greater detail in the following section the enjoyment of a number of fundamental human rights.

B. Right to life and deliberate killing

56. The inherent right to life enshrined in the International Covenant on Civil and Political Rights and in the Geneva Conventions of 1949, to which Afghanistan is a party, has hardly been respected during the war. At present, the enjoyment of the right to life is closely linked to the security situation. The unrest in the country and the power struggle being waged by non-democratic means are constant threats to the right to life. So far, political differences have often been settled through the use of weapons. It is also difficult to guarantee the right to life in terms of food, especially in Kabul, since the city has occasionally been subjected to economic blockades. In addition, large segments of the population, in particular children, elderly persons and women, including widows, have been left with no means of livelihood.

57. The greatest loss of life has been caused by rocket attacks, which are the aftermath of political quarrels. Air attacks with cluster bombs have also been reported. The number of persons killed in this manner in Kabul alone since April 1992 is estimated at more than 10,000. The antagonism between different political parties, their armed factions or other armed groups has occasionally resulted in massive indiscriminate killing. Tens of persons were killed in December 1992 and some 300 were taken prisoner; 33 persons died in the first two weeks of January 1993; 22 to 24 persons were killed on 9 March while approximately 100, among them many women and children, were killed in late March. In April, 7 persons were killed, some in hospitals which were shelled deliberately. More than 1,000 persons are thought to have been killed in nine days in May, while 3,200 to 4,500 were believed to be wounded. It was reported that 370 persons fled from Kabul to Pakistan between 8 and 14 May. Some 8

persons were killed in July and 17 in August. In September, 23 civilians were killed in the eastern part of Kabul in clashes between rival groups belonging to the Hezbe Wahadat and Ittehad Islami political parties. Persons are killed by rocket fire in Kabul every week.

58. In February 1993 between 200 and 300 persons are said to have been killed during a massacre in the Afshar neighbourhood of Kabul, which was inhabited predominantly by members of the Shia religious community. It was reportedly caused by the animosity between Hezbe Wahadat and Ittehad Islami, and was a response to a previous similar incident between them. When the Ittehad Islami forces, assisted by the Shurae Nazar group, launched air and ground attacks and subsequently took over the neighbourhood previously held by Hezbe Wahadat, indiscriminate killing, rape, torture and looting took place. Some persons were reportedly dismembered while 15 were hanged on trees and electricity pylons in front of their families. Looting also took place in the Chendawol neighbourhood. It should be stated, nevertheless, that all Afghans, regardless of their ethnic background, were subjected to atrocities during the fighting.

59. Armed clashes have also erupted occasionally in the provinces. Some 50 persons are believed to have been killed in Farah Province in December 1992 in clashes opposing armed groups belonging to Hezbe Wahadat and Harakat Inqilab. In Kandahar Province, 85 persons were reportedly killed in 3 days in mid-April 1993. Huge losses of life were reported in May in the Kapisa Province. In Khost Province, 10 persons were killed and 20 wounded in early July while 21 persons were killed in Nangarhar Province during the same month. In August, 250 persons are believed to have been killed in Kandahar Province. Fighting in Helmand Province has also been reported. In addition, more than 80 persons were killed at Jalalabad in September in conjunction with the assassination of the Deputy Governor of Nangarhar Province. Massive loss of life was also reported as a result of the power struggle in Nangarhar Province in October (see para. 31 above).

60. The Special Rapporteur was informed about the application of the death penalty in Afghanistan. After a number of public executions in 1992, no information was received concerning widespread application of the death penalty. Two persons were reportedly beheaded in Kunduz Province in June and one woman was stoned in the same province on charges of adultery. During his visit to Kabul, the Special Rapporteur questioned representatives of the judiciary on the public hanging which took place in that city in 1992. A judge responded that the governmental structure had not yet been in place at that time but that several judges who were trusted by the Islamic Government were already working. During his meeting with the Special Rapporteur, the President of Afghanistan stated that the four persons who were executed had killed approximately 20 people, including women and children, and that such a sentence was passed in order to prevent the killing of others. He added that the public hanging was an exceptional measure intended to serve as a deterrent and indicated that the incidence of similar crimes had decreased after the execution.

61. The judges of the Supreme Court explained to the Special Rapporteur that only judges appointed by the President would be authorized to pass judgements which entailed the death penalty. Persons sentenced to death can appeal against the judgement at five levels and a panel of judges takes the decision at each level. The decisions have to be unanimous. If the Supreme Court approves the

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judgement, the defendant can appeal to the President, who alone can sign execution orders, and who may not take a decision which is not in conformity with the Shariah. President Rabbani told the Special Rapporteur that to kill a person is against humanity while to prevent a killing is a good cause.

62. The Special Rapporteur was informed that there have been no massive and systematic acts of revenge against high-ranking officials of the former Government. Only individual acts of revenge on a personal basis have been reported. The Special Rapporteur received first-hand testimony from an individual who had received a letter with a death threat and who was subsequently the target of an attempted assassination.

63. However, the Special Rapporteur would like to quote the following excerpt from the Amnesty International report "Afghanistan: Political Crisis and the Refugees" published in September 1993 (AI INDEX: ASA 11/01/93):

> "According to reports, in Ghazni Province alone dozens of former members of the Watan Party (Homeland Party) of the former government have been extrajudicially executed since April 1992 by the province's governor, Qari Baba, who is affiliated to Moulavi Nabi Mohammadi's Harakat-e Inqilab Islami (Movement for Islamic Revolution). Some 14 members of the Parcham faction of the Watan Party were reportedly executed in July 1993 by Qari Baba's armed guards.
>
> "Another report relates to the trial by an Islamic court and subsequent execution of an unspecified number of Khalqi faction members of the Watan Party in Helmand Province, which is controlled by Moulavi Akhondzada, believed to be also affiliated to Harakat-e Inqilab Islami of Moulavi Nabi Mohammadi.
>
> "Recent Afghan refugees have reported seeing people arbitrarily arrested by armed guards and tortured in the street, on suspicion of being sympathetic to the former regime. According to one of these reports, armed guards arrested a former civil servant named Azad in a Kabul street in late 1992 or early 1993 and tied his hands and legs together with a rope. They told the crowd that the man would be sent as a gift to Herat's governor, Commander Ismail Khan, explaining that the governor had a personal feud with the man and would be pleased to see him."

64. In September 1993 the Special Rapporteur visited a mass grave which was discovered near Herat in 1992 and is not the only one in the country. It is believed to date to 1978-1979 when revolts against the communist Government and its reforms took place at Herat. The grave is situated in a valley surrounded by hills a few kilometres from the city and was discovered on the basis of information provided by a person who was a shepherd at the time and had noticed a lot of bulldozer activity in the area. Of the numerous skeletons discovered, only 15 to 20 have been identified by relatives who were able to recognize watches or pieces of jewellery and clothing. The bones and skulls are exposed in 14 locations which have been covered with glass, within the fenced area of the mass grave. The Special Rapporteur was able to observe bullet holes in many skulls, some of which were blindfolded. A mass grave which the Special Rapporteur was not able to visit was discovered in the vicinity of Pol-i-Charkhi prison near Kabul.

C. Personal liberty and the administration of justice

65. In his previous reports, the Special Rapporteur has always emphasized the importance of respect for the right to liberty of person in particular with regard to police and judicial investigation or during imprisonment.

66. In his last report to the Commission on Human Rights, the Special Rapporteur wrote about his visit to the Russian Federation and his meetings with the competent authorities, at their invitation, when they expressed their concern with regard to the fate of former Soviet prisoners (see E/CN.4/1993/42, para. 34). In Kabul the Special Rapporteur once again raised the question of those prisoners with the representatives of the Government of Afghanistan. The First Deputy Prime Minister said that a Russian delegation, visiting Afghanistan at the same time as the Special Rapporteur, would be allowed to see a number of Soviet prisoners on 17 September 1993. The Special Rapporteur was also informed that negotiations were in progress concerning the release of a number of prisoners, three of whom are reported to have been released on 18 September.

67. It should be noted that numerous Afghans are believed to be detained in the prisons of the former Union of Soviet Socialist Republics. During his visit to Moscow in January 1993, the Special Rapporteur was informed by the authorities that 26 Afghans were detained in prisons in the Commonwealth of Independent States, all for criminal offences.

68. During his recent visit to the area, the Special Rapporteur was informed by a reliable source that 80 former Soviet prisoners were still alive in Afghanistan. In Moscow, the Special Rapporteur was given a list of 297 persons said to be missing in action. He was informed in September 1993 that 235 persons were officially recorded in the Russian Federation as missing. It has been reported that four former Soviet prisoners were released when the Islamic revolution took place in April 1992, and that three were released in March 1993 by Jamiat Islami. General Dostom is reported to have released one former Soviet prisoner, while Hezbe Islami (Hekmatyar) is said to have released three who had been detained in the area of the Salang pass, at the time of the Special Rapporteur's visit to the region.

69. It is the opinion of the Special Rapporteur that an individual is always in the most vulnerable position while in detention during the period of investigation. He agrees with the Afghan Director for National Security that every political system has a different approach to security. The Director informed him that relative security prevails in those parts of the country which are under the control of the Government and that there were no secret detention centres and no political prisoners in areas it controls. Persons who committed acts of terrorism would be arrested, placed under investigation and duly prosecuted. The Director was unable to inform him of the number of prisoners, under investigation or otherwise detained, in Kabul or in the provinces. The Special Rapporteur was informed that there were only two governmental detention centres: one in the Sedarat Directorate and the other in a building belonging to the Directorate of National Security.

70. However, the Director for National Security agreed with the Special Rapporteur that political parties and different groups held their own prisoners in areas under their control, mostly at undisclosed locations. The Minister was

unable to provide the Special Rapporteur with the number of prisoners, believed to be in the hundreds, detained in jails belonging to the parties. The Special Rapporteur was informed that Hezbe Wahadat, Ittehad Islami, Hezbe Islami (Hekmatyar) and Hezbe Islami (Khalis) had prisons, as had Shurae Nazar, and that those detention centres were not located on Pakistani soil. The International Committee of the Red Cross has made attempts to visit such detention centres. The Special Rapporteur has expressed the opinion that the existence of private prisons is incompatible with an effective government and that they must be abolished.

71. Concerning the use of torture during investigation, the Director informed the Special Rapporteur that Islamic rules and regulations did not allow it and that a confession extracted under pressure would be discarded by a judge. Confessions were only valid when made in front of a judge, without the presence of the police or the attorney. There were numerous reports, however, that ill-treatment and torture were used to extract confessions in prisons belonging to the different political parties. The Special Rapporteur has been unable to verify those allegations.

72. The Special Rapporteur was informed about the administration of justice in the areas where the Kabul Government exercises its control. A number of laws which were in force under the previous Government have been maintained if they were compatible with the Shariah and the principles of an Islamic government. This is also the case with a number of administrative rules and regulations, although a commission has been set up to establish new guidelines. Former rules also apply for the greater part with regard to criminal law. The Penal Code promulgated in 1976 is still in force, as it was considered compatible with Islamic law, as are the penal procedures established in 1964. At present, as there is no Constitution, part of the investigation procedure is carried out by the police, while other parts fall under the competence of the Attorney-General's office.

73. The Supreme Court has an Advisory Board which is competent to determine, inter alia, the compatibility of the former legislation with the principles of the Shariah. There is also an advisory board of the criminal branch of the Supreme Court. Each district has a primary court and there are courts at the level of the provinces, as well as seven High Courts in Kabul. Special courts for political crimes which existed under the former Government have been abolished. The judges of the Supreme Court with whom the Special Rapporteur met indicated that the judicial system was functioning during the current transitional period. The Special Rapporteur has the impression, however, that the link of the central judiciary with the legal system in the provinces is quite rudimentary and that the administration of justice is organized locally. This impression was later confirmed by the Governor of Herat Province. At the time of the Special Rapporteur's visit to the country, the Minister of Justice had not yet taken office.

D. Freedom of expression

74. The right to the freedom of expression should be viewed in conjunction with the freedom to seek, receive and impart information. The enjoyment of these rights requires a certain amount of literacy among the population and the

existence of mass media. The Special Rapporteur has the impression that foreign journalists have free access to most of the country, despite the limitations on freedom of movement imposed by curfews, certain emergency measures and the existence of numerous checkpoints within the cities and on roads. Foreign journalists are able to report about Afghanistan quite openly. As for freedom of opinion and information, it would appear that parties control a number of media such as newspapers and television stations through which they express their views. As the Government in Kabul is dominated principally by the party of the President, it has a television and radio channel. The second television station in Kabul is controlled by the party of the Prime Minister, while the provinces have their own television stations. Persons who have access to satellite transmission are able to receive a wide spectrum of information from abroad. It should also be noted that the creation of non-Islamic political parties was declared illegal in June 1992.

E. Other human rights issues, including the rights of women

75. The human rights problems in Afghanistan are greatest in Kabul, as confirmed by all the high-ranking government officials met by the Special Rapporteur. Although the takeover of the city by mujahideen forces in April 1992 and the transition to an Islamic government began quite smoothly, rivalry between different groups and the ensuing power struggle have resulted in armed conflict. This is not the place to analyse the reasons behind the power struggle, but it has one important element that ought to be mentioned, namely that all those involved in it are heavily armed, both individuals and forces with political party affiliations.

76. All types of weapons may be found in Afghanistan, ranging from light and heavy artillery, rockets and missiles to airplanes. They come from the stocks of the former Afghan army or were delivered to the former opposition groups by their allies during the foreign occupation. In his book The Bear Trap, Mr. Mohammad Yousaf provides an impressive account of such arms deliveries. The former Afghan army also received weapons from the Soviet army when it withdrew from Afghanistan in 1989. During his recent visit to Kabul, the Special Rapporteur was able to observe on the streets how heavily armed the persons at the checkpoints were. Weapons are a means to exercise political pressure, and in private hands they are a means of enforcing private demands, in addition to being used for self-defence.

77. In a number of provinces such as Herat, weapons were reportedly given to the former militia forces. Some provincial governors, for instance those of Herat and Balkh provinces, have been able to carry out a certain degree of disarmament since the breakdown of the former Government, among both individuals and armed groups. The Governor of Herat has reportedly also been able to implement some disarmament in the Badghis and Faryab provinces. As there is no army, the allegiances are to individuals. The Special Rapporteur was able to observe that people do not carry weapons openly in the streets of Herat and Mazar-i-Sharif. That had also been the case in Nangarhar Province before the recent tensions.

78. Use of arms has caused massive destruction in Kabul. The Special Rapporteur has been visiting the city since 1987 and can compare the present

situation with that of two years ago. Perhaps two or three neighbourhoods have been left more or less intact; the others have sustained heavy damage or are completely destroyed and deserted. In September 1993, the mayor of Kabul informed the Special Rapporteur that, since the Islamic Government came to power in 1992, some 36,000 houses have been partly or fully destroyed and more than 30,000 damaged and that approximately 15,000 families were still living in schools and other public buildings throughout the city. Although no precise statistics were available, it is estimated that 110,000 families have been displaced within Kabul, only 25,000 of whom were able to receive assistance.

79. Although university life has already begun at Jalalabad, the Dean of the Law Faculty of the University of Kabul informed the Special Rapporteur that those faculties which have resumed classes in Kabul have had to do so outside the university premises. Other students were dispersed throughout the city and mostly had to sit on the floor because the chairs had been destroyed or looted. She also indicated that some 150 university professors had fled the city because of the fighting and gone to Pakistan, which made teaching and research very difficult.

80. During his visit to Kabul in September 1993, the Special Rapporteur was able to visit the area of the University, which was subjected to heavy rocket fire, so that many parts have been completely destroyed. He visited in particular the main building of the Medical Faculty, which has been devastated. Furniture, including the seats in the auditorium, and even washbasins have been either looted or destroyed. What remained of books and documents was scattered all over the floors. Not a single window remained unbroken and the walls were black and burned.

81. The Special Rapporteur also visited other areas in Kabul, including the western and southern parts of the city, where no building remains undamaged. He drove through Maiwand Avenue, whose concrete buildings have been so heavily damaged that they recall the cities of Europe after the bombardments of the Second World War.

82. It is evident that such a situation is not propitious for the full enjoyment of human rights. Numerous witnesses, including refugees and displaced persons, who testified before the Special Rapporteur spoke in considerable detail of incessant looting, rape of women, ill-treatment and killing, even of children. By contrast, a number of provincial capitals, such as Mazar-i-Sharif, Jalalabad and Herat, which suffered a great deal during the war have been much calmer during the transitional period. Since the demise of the former Government, fundamental human rights have been respected in those relatively safe cities to a much greater extent than in Kabul.

83. The Special Rapporteur has endeavoured to gain accurate insight into the status of women in contemporary Afghan society. He met the representatives of the Afghan Women's Association and the Dean of the Law Faculty of the University of Kabul, who is a woman. He also met representatives of humanitarian organizations and private individuals who had first-hand information about the situation of women. In Peshawar, the Special Rapporteur spoke to a number of refugee women, including widows living in particularly hard conditions in the refugee settlement at Hayatabad. He also raised the issue of the status of women during talks with high-ranking government officials.

84. On 22 June 1993, the former Minister for Foreign Affairs of Afghanistan, Suleiman Gailani, stated at the World Conference on Human Rights at Vienna that the Government was making extensive efforts to enable Afghan women to enjoy their rights and creating better opportunities for them. The Government hoped that the existing problems concerning women's rights would be gradually solved and that favourable conditions would be created for their effective participation in the political, economic and social life of the society.

85. During his meeting with the Special Rapporteur in September 1993, the First Deputy Prime Minister of Afghanistan, Qutbuddin Hilal, stated that women enjoyed numerous rights under Islam. He indicated however that it would be difficult for women to participate in elections, in view of the low rate of literacy among them.

86. With regard to education, the representative of the Council of Nangarhar Province informed the Special Rapporteur that 26,000 female students were studying in educational institutions at all levels, while 42 seats at the University of Jalalabad were allocated especially for female students. The staff member from the Centre for Human Rights of the Secretariat who accompanied the Special Rapporteur during his mission to the area was invited to visit a school for girls, and to meet with women, in particular with widows.

87. The Jalalabad Accord concluded on 19 May 1993 stipulates that "the shariah veil shall be strictly observed". In his report to the Commission on Human Rights (E/CN.4/1993/42, para. 32), the Special Rapporteur indicated that no women reporters were allowed on Afghan television. He was subsequently informed that women were authorized to appear on the government-run television station in April 1993. During his visit to Afghanistan in September 1993, the Special Rapporteur was able to observe women presenting the evening news.

88. Representatives of the Afghan Women's Association informed the Special Rapporteur about the organization and activities of the Association, which used to have productive activities, such as carpet weaving, sewing, knitting and the fabrication of handicrafts. Its educational activities included Islamic and language courses, and courses intended to raise the consciousness of women. The Special Rapporteur was informed that most of those activities had come to a halt as a result of destruction and looting of the machines, cassettes and other material perpetrated by armed members of the government militia and other mujahideen factions during the transitional period.

89. The situation of women in Afghanistan also has a dark side which was manifested during the recent period of unrest, particularly in Kabul. The Special Rapporteur was informed of numerous cases of rape; he was also given the names of several women and girls who chose to commit suicide to avoid being raped, and told of the circumstances in which they died. The systematic practice of rape in Kabul in 1992 and 1993 prompted a prominent Afghan lady to state that women had never been dishonoured in this way in Afghanistan before. The Special Rapporteur was informed about atrocities such as the massive rape and abduction of women during the fighting in the Afshar and other neighbourhoods of Kabul in February 1993, the reported offer for sale of some 80 women held captive by an armed group affiliated to a particular party and the systematic rape of women and girls in a mental asylum. A woman was forced by armed men to give birth in a vehicle on the street. It appears that none of the

persons who committed such acts have been prosecuted by the competent judicial authorities.

90. The Special Rapporteur was told that women in Afghanistan were not well served by their present political rights, and that women in the provinces were probably in a better situation from the standpoint of security than in Kabul but were less aware of their overall position in society.

91. The problem of narcotics has reached unprecedented proportions as Afghanistan has become one of the largest producers of raw material in the world. Local farmers grow poppies for the production of narcotics and will continue to do so until they are able to ensure sufficient income from substitution crops. The United Nations humanitarian assistance provided to Afghanistan includes a drug control and rehabilitation programme, which organizes training courses for members of non-governmental organizations in the field and drug awareness events, and is currently active in the country's southern provinces.

V. ECONOMIC, SOCIAL AND CULTURAL RIGHTS

92. The Special Rapporteur described the situation regarding the enjoyment of economic, social and cultural rights in Afghanistan in his report to the Commission on Human Rights (E/CN.4/1993/42). It has also been described in the consolidated appeal by the Secretary-General for emergency humanitarian assistance for Afghanistan, of January 1993, and in the weekly reports on humanitarian assistance for Afghanistan, which give "a hope amongst ruins". However impressive it may be, the assistance is not commensurate with the evident needs of the country and its people. The activities of non-governmental organizations, such as Afghanistan Hilfe und Entwicklungsdienst der Stadt Hamburg, which provide direct assistance in the field and are coordinated by the Agency Coordinating Body for Afghan Relief are also not sufficient.

93. The Special Rapporteur has already referred to the distressing situation of the University of Kabul, whose premises have sustained heavy damage. Numerous educational institutions still house displaced persons from those parts of the city which have been destroyed. The only classes being held are those of the fifth year of medical school, on the premises of the Military Medical Academy Hospital. The fighting in Kabul has also entailed the damage or destruction of numerous cultural monuments. The Special Rapporteur has been unable to ascertain whether the National Museum, located in the Darul Aman neighbourhood of the city, has been damaged and its treasures looted.

94. The Afghan Peace Accord stipulates that an all-party committee shall be constituted to supervise control over the monetary system and currency regulations, to keep them in conformity with existing Afghan banking laws and regulations. However, the Division of Powers annexed to the Accord stipulates that the President is empowered to grant formal permission to print money. Prime Minister Hekmatyar is reported to have stated that the Afghan currency continues to be printed in the Russian Federation and is received by the President, who then distributes it among the parties that are members of the coalition Government and to the Municipality of Kabul. The Special Rapporteur

is not acquainted with the specific rules governing the distribution of money, but he was told that it is influenced by the overall strength of a given party.

95. During the first months of 1993, outbreaks of cholera were registered in several parts of Afghanistan. In September 1993, the Minister of Health informed the Special Rapporteur that the disease was largely under control, thanks mainly to the assistance provided by the United Nations. The Special Rapporteur's attention has also been drawn to an incident in which a number of children are alleged to have poisoned the water in a Kabul neighbourhood as a voluntary act of terrorism. Accusations were made in connection with the rivalry between two political parties, one of which was reported to have held the children in detention. The Special Rapporteur was informed by one of the parties involved in the dispute that an investigation was conducted by a joint commission composed of members of both concerned parties to which the children were reportedly handed over.

VI. SELF-DETERMINATION

96. There are several modes of exercising the right to self-determination, all of which must be based on the freely expressed will of the people. The war waged by the Afghan people against foreign domination, which was qualified as a *jihad* (holy war), and its refusal to be ruled by a government described as being of "infidels", are expressions of self-determination. The decision of millions of Afghans to leave their country and become refugees, and the decision of numerous persons to return also constitute a mode of self-determination.

97. The next step in the realization of the right to self-determination enshrined in the Human Rights Covenants to which Afghanistan is a party, and respect for which has been pledged by its governmental representatives in United Nations forums, is the decision to establish a government which represents all segments of the Afghan population. In this connection, the Special Rapporteur wishes to refer to General Assembly resolution 46/137 of 17 December 1991, in which the Assembly upheld the principle of periodic and genuine elections. The United Nations provides assistance in this area which goes beyond mere observation and has already assisted the election process in numerous countries.

98. For the holding of general elections, there must be security in the country and respect for human rights must be guaranteed and universal. Refugees and displaced persons should be able to return to their homes. These are some of the basic conditions which have to be met if elections are to be a means of exercising the right to self-determination and of legitimizing a given government. The Islamabad and Jalalabad accords could pave the way for a mobilization of the political will of the population.

99. The Afghan Peace Accord signed at Islamabad contains an agreement regarding an electoral process, to be implemented within the period of 18 months starting on 29 December 1992. An independent Election Commission would be formed to hold elections for a Grand Constituent Assembly. The Assembly would formulate a Constitution under which general elections for the President and Parliament would be held within that 18-month period (see S/25435).

100. The Jalalabad Accord provided for the creation of a Supreme Council consisting of "Jehadi leaders, commanders, wise and sincere personalities", mandated to oversee the work of the 20-member Election Commission, into which each party would be able to introduce one person, the other members being designated by two thirds and majority votes. The Commission's Charter stipulated that it should submit its method of election by 22 June 1993 for final approval by the Supreme Council, and complete its work by presenting the elected representatives in Kabul by 22 October 1993.

101. A 45-member election commission headed by Maulavi Mohammad Nabi Mohammadi was set up but failed to achieve any results, mainly, it appears, because no agreement could be reached on whether to hold direct or indirect elections. Until such a decision is taken, the process of democratization in Afghanistan will not advance. The power vacuum in the capital, characterized by quarrels between heavily armed groups, will continue. It should be noted, however, that the Government of Afghanistan invited the United Nations to supervise elections and to provide financial assistance for the same in a letter dated 14 July 1993. The Joint Commission which was to monitor the cease-fire and cessation of hostilities also has achieved nothing. Political differences continue to be settled by non-democratic means.

VII. CONCLUSIONS AND RECOMMENDATIONS

A. Conclusions

102. After the holding of the Shura-Ahl-e-Hal Wa Aqd (see paras. 17-18 above), the Special Rapporteur expressed doubts whether the circumstances in which it was held, the participation and the decisions taken would be accepted as a valid basis for normal and peaceful political development in Afghanistan. Indeed, the power struggle continued after the shura, which prompted the convening of a gathering of the political parties initiated by the leaders of Saudi Arabia and Pakistan and attended by a representative of the Islamic Republic of Iran, to discuss and adopt guidelines for a political solution. All party leaders with whom the Special Rapporteur met during his last visit to the region agreed that it was necessary to find a solution to the power struggle. The Special Rapporteur has concluded that among the principal causes of dissent are differences of opinion concerning the approach to a political solution.

103. The political situation in Afghanistan is characterized by political agreements adopted by the coalition of leaders of nine former opposition parties. The Afghan Peace Accord concluded at Islamabad in March 1993 (see para. 21 above) provided for the formation of a Government for a period of 18 months in which Mr. Rabbani would remain President and Mr. Hekmatyar would assume the office of Prime Minister. Agreement was also reached on an electoral process and the formation of an independent Election Commission.

104. The Peace Accord also contained the text of the Division of Powers (see para. 22 above). The Cabinet established thereby would work on the principle of collective responsibility.

105. Under the Jalalabad Accord of May 1993 (see para. 23 above), it was decided, inter alia, to establish a Supreme Council which would provide guidance

concerning policy-making and whose aims would be to stop the war throughout Afghanistan, establish an Islamic army and form a cabinet "with the consent of the majority of the Jehadi leaders and approval of the President".

106. Having concluded the Islamabad and Jalalabad accords, which could represent a point of departure for the day-to-day functioning of a government, the country's political leaders are not in a position to implement them. The envisaged organs and commissions are not working and no time-frame concerning their programmes has been respected. On the contrary, the different political groups terrorize each other. For example, political enemies are the targets of mine or bomb explosions and differences concerning relatively minor issues may result in massive killing. In addition, the lives of certain members of private organizations which are independent from the Afghan political forces have been threatened.

107. Kabul is a decentralized area in which no government can really exercise power. Power is shared principally between groups loyal to President Rabbani and those loyal to Prime Minister Hekmatyar. The airport is currently controlled by forces over which the President has authority. Flights into and out of the capital and travel are possible only when there is a common understanding on the use of the airport.

108. There is no central power which exercises control over the provinces. Provinces are mostly governed by shuras which are often headed by prominent field commanders and do not reflect the composition or alliances of the so-called coalition in Kabul, as is the case in Nangarhar Province in the east. In the northern and western parts of the country, authority is exercised by persons whose authority extends beyond a single province and who have so far been able to guarantee law and order in their zones of influence. The infighting in Kabul may have repercussions in the provinces. The conflict can also be more or less specific to a given province, as was the case with the assassination in September 1993 of the Deputy Governor of Nangarhar Province which has given rise to general instability in the area. The current conflict in Kandahar Province does not follow the pattern of the alliances that have been formed elsewhere. (For more detailed information concerning local administrations set up by mujahideen commanders, see appendix 2 to the Amnesty International report of September 1993 entitled "Afghanistan: Political Crisis and the Refugees", AI INDEX: ASA 11/01/93.)

109. Kabul is governed by groups that are partners in the coalition and by those created along tribal and other lines. They control different sectors of the city, without any coordination, which accounts for a general lack of safety in the city. The Mayor's office is located in an area where a certain amount of governmental authority and infrastructure may be observed, but beyond that relatively small area control is exercised by armed groups, at times in a manner that can hardly be described as being in conformity with human rights standards.

110. The most badly damaged area in Kabul is that of the University with which the Special Rapporteur was well acquainted from earlier visits to the city. He was shocked to see houses, buildings, institutions and university premises and facilities either destroyed or heavily damaged and visibly looted.

111. In Kabul, some 36,000 houses have been partly or fully destroyed and more than 30,000 damaged. Approximately 110,000 families have been displaced and thousands of persons have been killed or wounded during the battles in and around the city. Numerous cases of rape and ill-treatment by armed persons have been reported. A reliable source told the Special Rapporteur that women have never been treated in Afghanistan with such a lack of respect as in recent months.

112. Contrary to expectations, the massive repatriation of refugees, which began after the breakdown of the former Government when more than 1.3 million persons returned from Pakistan alone, has not continued. In 1993, a relatively small number of refugees chose to return from Pakistan. The Pakistani authorities, who have continued to provide assistance to Afghan refugees in conjunction with UNHCR and a number of non-governmental organizations, have closed more than 120 administrative units within refugee camps, principally in the Baluchistan and North West Frontier provinces. An estimated 2 million refugees remain in Pakistan and approximately 2.15 million are still in the Islamic Republic of Iran. Written reports and oral testimony have been received concerning the harassment in northern Afghanistan of refugees returning from the Islamic Republic of Iran, especially from Khorasan Province.

113. More than 90,000 new refugees have arrived in Pakistan since April 1992. They are mostly unregistered refugees from urban areas who have not been placed in camps and do not receive any assistance. Most live in appalling conditions, some of them in squatters' camps with no facilities.

114. The Special Rapporteur was informed about the situation of members of the Afghan Sikh and Hindu communities who have fled Kabul. Numerous families from those communities were able to find shelter in India, but some faced administrative difficulties when crossing borders on the way, mostly through the North West Frontier and Baluchistan provinces. It would appear that many are now willing to return. Members of those communities who spoke with the Special Rapporteur told him that they did not leave Afghanistan because of racial hatred but owing to the insecurity caused by shelling and looting.

115. The continuous serious threat to the right to life has been characterized by massacres such as the one perpetrated in an area of Kabul controlled by members of the Afghan Shia community. The armed groups which participated in the massacre also raped women and girls and ill-treated children. All Afghans, regardless of their ethnic background, were subjected to atrocities. Despite the gravity of the offences, no thorough investigation into the matter has reportedly been undertaken.

116. A mass grave was discovered in 1992 near the city of Herat. Many of the dead were killed by shots in the head. It would appear that the killing dates back to 1978-1979 when the first uprising against the communist Government started in and around Herat. The Special Rapporteur was informed that this was not the only mass grave discovered in the country. He is of the opinion that the discovery of mass graves will help to elucidate the fate of persons who disappeared in Afghanistan in the late 1970s.

117. Death sentences continue to be pronounced and are reportedly carried out in conformity with the Shariah. The Special Rapporteur was informed that the death

sentences which were passed and carried out in public in 1992 were exceptional measures taken under specific circumstances and in view of the situation prevailing at the time.

118. The governmental authorities in Kabul have stated that there are no political prisoners in detention centres under their control. However, they have indicated that investigation procedures are conducted by the police, under the control of the Attorney-General, and are transferred to courts after the completion of the files. As regards torture, the Special Rapporteur was informed that the Islamic rules and regulations enshrined in the Koran forbid such practice.

119. It has been admitted that prisons controlled by political parties and other groups exist in Afghanistan. Not all parties have prisons. The Special Rapporteur was not able to obtain information concerning the number of prisoners detained in such prisons, their location or how they were treated. It would appear that they are often held as hostages. The International Committee of the Red Cross has tried to obtain permission to visit those prisoners. The Special Rapporteur is of the view that the existence of a central government would preclude the creation of prisons controlled by parties.

120. The fate of former Soviet prisoners has remained unresolved. Afghan groups which have such prisoners in their custody are reluctant to release them unconditionally. It would appear that they are considered an element for bargaining, which is unequivocally prohibited by humanitarian law. Negotiations concerning the release of a number of the prisoners coincided with the Special Rapporteur's visit to Afghanistan. However, peace in the country and the establishment of normal international relations warrant a final step such as the release of those prisoners, whose number is estimated at between 80 and 235. They should be allowed to decide where they want to go: remain in Afghanistan integrated into the Afghan society, go to a third country or return to their homes.

121. Fortunately, after the Islamic Government took office, there were no massive or systematic acts of revenge against persons who occupied prominent positions in the previous Government. However, individual acts of revenge have been reported.

122. As concerns the amnesty which was proclaimed after the establishment of an Islamic Government, it would appear that problems have arisen with regard to the interpretation of the general amnesty decree which was adopted unanimously under former President Mojjadidi and which principally concerns high-ranking officials of the former Government. As he has indicated in his reports to the General Assembly and the Commission on Human Rights, the Special Rapporteur is of the opinion that even former President Najibullah should be granted amnesty since the amnesty decree of the Government did not provide for any exceptions.

123. The Special Rapporteur was able to obtain specific information about education from persons who exercise authority in a number of provinces located in the western, northern and eastern parts of the country. The Special Rapporteur sees no possibility for the revival of university life in Kabul, especially in the scientific and technical fields which require fully equipped institutes and laboratories.

124. The situation of Afghan refugees in both Pakistan and the Islamic Republic of Iran has been regulated by agreements concluded between UNHCR, the Government of Afghanistan and the Governments of the Islamic Republic of Iran and Pakistan, which resulted in the establishment of Tripartite Commissions. Reference is made in the agreements to the human rights enshrined in the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights. It has been reported, however, that Afghan refugees have recently been repatriated forcibly from the Islamic Republic of Iran, in particular from Khorasan Province. The Special Rapporteur received detailed testimony from reliable sources concerning this practice of expulsion.

125. The economic and social situation in Afghanistan is far from satisfactory. Basic commodities are not always available on the market and prices are high in comparison with the average income. A number of areas have been affected by epidemics of diseases such as cholera. Although the United Nations has made considerable efforts with regard to mine clearing, the process cannot advance rapidly for lack of funds and equipment.

126. It has been reported that the National Museum in Kabul has been partly destroyed and looted. The Special Rapporteur is aware that heavy fighting has taken place in the area where the museum is located but was unable to ascertain the veracity of the reports.

127. The Special Rapporteur has finally come to the conclusion that the situation of human rights in Afghanistan is far from being satisfactory. Owing to the absence of an effective central government, the existing authorities are unable to govern the provinces and not even all areas in Kabul are under their control. Only a democratic understanding between the representatives of the political parties can solve the conflict, which could escalate into a total war with repercussions for the security of the whole region. The conflict in neighbouring Tajikistan, for example, has spilled over into Afghanistan and created a new problem of Tajik refugees and internally displaced Afghans. The respect of the human rights enshrined in the Universal Declaration and the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights, to which Afghanistan is a party and which it has pledged to implement, is not guaranteed. This is also one of the reasons for the absence of a "pull factor" that would prompt Afghan refugees to return to their country. It would appear that the "push factors" which keep the refugees away continue to prevail, among them insecurity, unrest, mines and the problems which the international community faces in rendering assistance. The Afghan people have been overwhelmed by large amounts of sophisticated weapons, which were helpful in waging the war against foreign occupation but whose existence is disastrous for peace, if anyone can command a situation by use of weapons. The people are victims of a situation which, after the victory of the liberation struggle, has rendered the whole country helpless.

B. Recommendations

128. The Special Rapporteur wishes to reiterate the recommendations contained in his report to the General Assembly at its forty-seventh session (A/47/656), namely that humanitarian law must be respected scrupulously (para. 130); that the Government should issue a declaration on the basis of article 4 of the

International Covenant on Civil and Political Rights (para. 131); and that the International Committee of the Red Cross should be allowed to visit places of detention organized by combatants or governmental authorities wherever they may be (para. 133); he also reiterates his recommendations on the administration of justice (para. 134) and on non-discriminatory application of the amnesty decree (para. 140).

129. The Government of Afghanistan should implement the provisions of the Islamabad and Jalalabad accords, which provide for the establishment of an Election Commission and a Supreme Council mandated to draft the Constitution.

130. The United Nations should offer advisory services and technical assistance concerning the drafting of the constitution and holding direct elections or a *Loya Jirga* in keeping with Afghan tradition. The new Constitution should embody human rights principles which are in conformity with the *Shariah* and with those enshrined in United Nations instruments.

131. Since it is possible for the United Nations to provide advisory services and technical assistance only when there is peace, security and a functioning central government, the weapons currently in the possession of unauthorized organized armed groups should be handed over, under the supervision of the United Nations, and used for the creation of a central governmental army or destroyed.

132. The former Soviet prisoners of war should be released unconditionally, in conformity with the Geneva Conventions of August 1949. Since the amnesty decree of the Government did not provide for any exceptions, former President Najibullah should be granted amnesty. In view of his state of health, he should be released promptly on humanitarian grounds.

133. Prisons run by political parties should be abolished and their prisoners released or, if a case exists, given a fair trial. The International Committee of the Red Cross and the Special Rapporteur should be allowed to monitor the implementation of this recommendation.

134. Every effort should be made to broaden and accelerate the process of mine clearing.

135. Every effort should be made to enable displaced persons to return safely to their homes and to rebuild them.

136. Respect for women and their honour and dignity should be ensured in accordance with the provisions of international human rights instruments and the Geneva Conventions.

137. Political conflicts should be solved by peaceful and democratic means. The use of weapons to gain power or achieve political goals should be declared unlawful unanimously.

138. As the Special Rapporteur has been asked on several occasions to mobilize the United Nations to assist once again in reaching a political solution to the power struggle, he recommends the political organs of the United Nations at least to attempt to bring the conflicting groups to the negotiating table.

139. The Special Rapporteur appeals to the international community to continue its efforts in favour of mine clearing and provide financial and other contributions for that process, so that the reconstruction of the villages and cities in Afghanistan can advance and refugees may return to a safe environment.

140. The United Nations Educational, Scientific and Cultural Organization (UNESCO) should be invited to study the situation of the cultural heritage of the country, in particular that of the Kabul Museum. Efforts should be made to reconstruct the University of Kabul and revive the educational process.

141. In addition to continuing its humanitarian activities, the United Nations should continue to monitor the developments concerning the situation of human rights in Afghanistan.

142. The Special Rapporteur recommends that his report should also be translated into the Dari and Pashtu languages, which would help reflect the interest of the international community in the fate of Afghanistan so that the Afghan people and conflict are not forgotten.
